



*Revenue*

**Reduce, Reuse and Recycle** <sup>1</sup>

# Our Message

## Legislation

- AB 939
- State Changes
- AB 341
- SB 1374
- Green Building

## Revenue

- Options



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- Historic and pending environmental legislation impact City budgets. They are unfunded mandates. Cities are authorized to create their own funding mechanisms.
- City staff must understand current environmental program costs and funding sources, as well as plan for additional costs.

# AB 939 – Integrated Waste Management Act of California

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- Financial Impact
  - Largest unfunded mandate to date
  - City expenses averaged \$200,000 to develop planning documents and program elements
  - Average City cost is \$100,000 annually to implement and monitor AB 939 programs
- Result
  - Cities franchised hauling and levied fees
  - Higher City costs and increased rates to residents and businesses.

# Changing Dynamics of State Legislation

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Reduce, Reuse and Recycle

- Each year State Legislature passes new laws impacting solid waste management.
- AB 939 was diversion based. Required cities to count all solid waste generated (quantify both disposal and diversion). Required 50% diversion rate by 2000. (1989)
- AB 2494 completely changed how diversion was counted. Through use of formulas current year disposal at the landfill is measured against historic disposal. (1992)
- SB 1016 further complicated compliance by switching to per-capita disposal targets for both residential and commercial sectors (ignoring impact of industrial sector). (2006)
- Counting everything is your only defense as a disposal based systems can be dramatically impacted by inaccurate disposal reporting.
- New legislation requires you to quantify diversion so we're back where we started!

# Mandatory Commercial Recycling

## AB 341

### Legislation

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### ***AB 341 – Signed by the Governor November 2011***

- California is one of the first states in the nation to enact a statewide program to reduce greenhouse gas emissions by diverting commercial waste from landfills.
- Increasing the recovery of recyclable materials will directly reduce GHG emissions. (This is the goal of AB 32, The California Global Warming Solutions Act).
- AB 341 has provided authority to CalRecycle to implement the mandatory commercial recycling program.

# AB 341 – What it means to your city

## Legislation

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- Requires recycling program for every entity generating more than four cubic yards per week
  - Businesses
  - Public entities
  - Multi-family properties with 5 units or more
- Options
  - Subscribe to recyclables-only service
  - Subscribe to mixed waste processing
- New implementation and reporting costs for:
  - Education & Outreach
  - Identification and quantification of materials
  - Implementation and monitoring of new programs
  - Enforcement
  - Annual reporting to State

# AB 341 – Important Dates



## Legislation

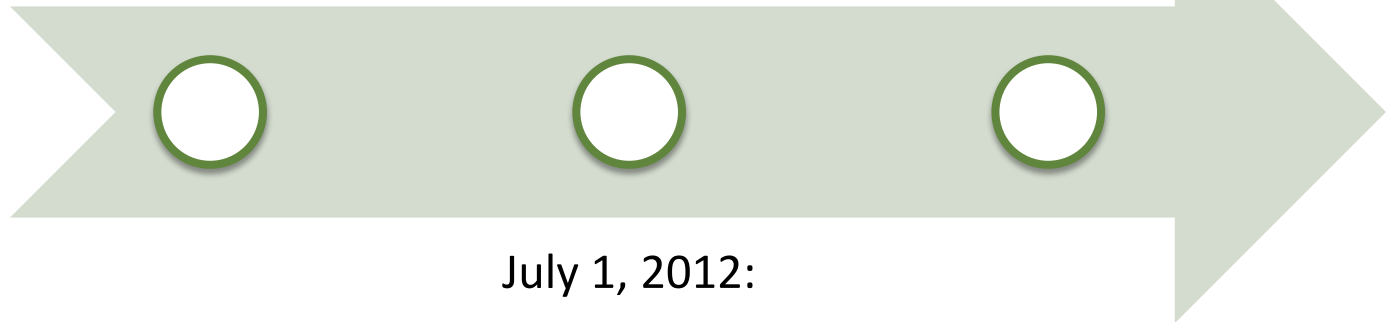
- AB 939
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July 1, 2012:  
Commercial  
Recycling  
Implementation  
Date

August 2013:  
Annual Reports  
Due



July 1, 2012:  
City Monitoring  
and  
Technical  
Assistance  
Begins



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# Construction Demolition Legislation & Regulations

**SB 1374**

**&**

**2010 California Green Building Code**



# SB 1374 – Construction & Demolition Diversion

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- Purpose
  - Divert construction and demolition waste material from landfills
  - Track and control waste at jobsites
- Requirements
  - Develop or adopt ordinance
  - Diversion rates of 50% - 75%
  - Annual progress reports

# California Green Building Code

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- Mandatory New Construction Recycling (January 1, 2011)
- 50% Diversion (Target)
- Suggested Instrument is through an Ordinance but not required, depends upon your SB 1374 approach/Ordinance
- Does not apply to Demolition, SB 1374 is the instrument for demolition
- Requires a recycling/diversion plan to be submitted before construction begins.
- Tracking and Reporting Requirements (per project)
- Defaults to the State program if City does not implement their own program/ordinance.

# Key City Components for Effective Construction Waste Management

## Legislation

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- Only haulers that report to City allowed to haul construction site waste. Necessary to comply with Green Building Code and SB 1374.
- Not all hauling can be franchised. Specialty vehicles (dump trucks) are not a typical franchised trash hauler service. Construction self-haul may be legally protected (no current case law).
- Must focus on general contractor – they hire the haulers. Use municipal code to establish requirements and make hiring an illegal hauler a misdemeanor.
- Must provide weight tickets and invoices to prove use of “permitted hauler” – now you have the data needed to show compliance with State regulations.
- Establish permit fee system for construction haulers to cover their fair share of City street repair/improvement costs – now you have a monitoring program that pays for itself and creates new City revenue.

# Benefits of Comprehensive Construction Waste Management

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- Protects City from liability through hauler insurance requirements (City as additional insured). Also protects the City from long-term liability as you can proactively avoid problematic disposal sites.
- City has defensible numbers from which to dispute erroneous disposal figures – Landfills only ask truck drivers to verbally state the origin of their loads.
- Permit fee systems generate new City revenues that are spread out over a large number of projects so impacts to residents and business are minimal. Competition keeps costs low.
- City right to establish fees granted by AB 939 and AB 341. This approach is the most economical means to deal with an unfunded mandate.

# Suggestions for City Mandatory Recycling Programs

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- Legally you cannot franchise all commercial recycling with your franchised hauler. (Rancho Mirage vs. Palm Springs Recycling case law).
- Additional costs and regulations upon businesses are difficult for cities in good financial times. Given current economic conditions a better approach is needed.
- Inability to exclude recyclers from City franchise does not preclude including recyclers in a permit or franchise program.
- Utilize recyclers and your franchise hauler to implement programs, pay fees to cover City costs, and provide data for required reports.
- Ensure that City and residents are serviced by compliant vehicles and protected by appropriate insurance.
- Incorporate specialty haulers – remember, counting everything is your best defense against future legislative changes.

# City of Industry Approach

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- Optional Commercial Recycling with approved and licensed haulers.
- Each Hauler procures a permit to conduct salvage services. Each commodity is tracked through a separate permit.
- Multiple haulers are sometimes at the same location (1-Old Corrugated Cardboard, 1 – Plastic Film)
- Each Hauler reports on a monthly basis of all permit activities in the City and pays a per ton fee.
- Haulers also procure bin decal stickers.
- Vehicle/Insurance standards are required.
- Franchise Hauler competes for market share.
- Program pays for it's self, covers all education materials, code enforcement, program administration, reporting and consultant fees.

# What Municipalities Can Do

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- Review current franchise agreements and assess expected versus actual revenue generation.
- Establish City budget categories that are impacted by solid waste collection activity (i.e. street repair).
- Determine if current system provides reasonable funding support.
- Participate in new program development to assess cost impacts to the City and ratepayers.
- Determine new City revenue needs.
- Develop funding mechanisms to avoid budget impacts.

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