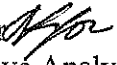


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: April 9, 2013

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations
Committee

FROM: Gerry F. Miller 
Chief Legislative Analyst

Assignment No. 13-04-0260
Council File No. 13-0002-S48

SUBJECT: Resolution Opposing AB 371 – Biosolids in Kern County

CLA RECOMMENDATION: ADOPT attached Resolution that would include in the City's 2013-14 State Legislative Program OPPOSITION to AB 371, which would permit Kern County to prohibit the land application of biosolids in its county and thereby force closure of the City's biosolids application program at the Green Acres Farm.

SUMMARY

Our office has prepared and recommends adoption of the attached Resolution in opposition to AB 371 (Salas), in response to recommendations by the Board of Public Works and the Bureau of Sanitation bill response report that recommends opposition to the bill. AB 371 would permit the Kern County Board of Supervisors to establish more stringent regulations or prohibitions on the land application of biosolids in Kern County than exist in state and federal law. The City owns and operates the Green Acres Farm in Kern County, at which the majority of its biosolids are managed.

The City purchased the Green Acres Farm in Kern County in 2000, and has applied biosolids at the site since 1994. Roughly 77 percent of the City's biosolids (representing 470 wet tons per day) is managed at the Green Acres Farm. The City has invested over \$15 million in upgrades to its treatment plants and the Farm to meet existing regulations, including Kern County's own Biosolids Ordinance, which allows only the application of exceptional quality class A biosolids.

Passage of AB 371 could result in Kern passing restrictions or prohibitions that would shut down the Green Acres program altogether, and Sanitation reports that it would end an environmentally sound and economically feasible program that the City has owned and operated since 2000. Kern County attempted to ban land application of biosolids from urban municipalities in 2006.

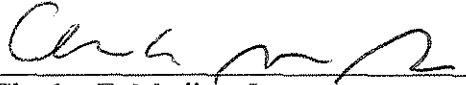
BILL STATUS

AB 371

2/14/13 Introduced

3/19/13 Last Amended

4/ 2 /13 Passed Cmte on E.S. & T.M., ref. to Cmte. on L. Gov.


Charles E. Modica, Jr.
Analyst

Attachments:

- (1) Resolution
- (2) AB 371

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City of Los Angeles produces over 220,000 tons of biosolids annually, and is committed to long-term and environmentally sound management of those biosolids in compliance with all applicable federal, state, and local regulations; and

WHEREAS, a large part of the City's biosolids management program consists of land application of treated biosolids at the City-owned Green Acres Farm in Kern County, where over three-fourths of the City's biosolids are used to fertilize crops that are then sold as feed crops to local dairies; and

WHEREAS, the California State Water Resources Control Board enforces general waste discharge requirements regulating the land application of biosolids as a soil amendment or fertilizer, the California Integrated Waste Management Board imposes requirements with respect to solid waste management, and the California Integrated Waste Management Act specifically allows for land-application of biosolids as part of biosolids management programs; and

WHEREAS, the City has consistently met all environmental requirements at the Green Acres Farm, has never been issued any environmental or health impact notice or violation related to operations at the Farm, and has invested over \$15 million in upgrades to its treatment plants and the Farm itself to ensure that its biosolids program is operated in an environmentally responsible manner; and

WHEREAS, contrary to the aims of the Integrated Waste Management Act, State Assemblymember Salas has introduced AB 371, which would permit Kern County to establish additional restrictions on the land application of biosolids in Kern County, or to prohibit land application of biosolids in Kern County altogether; and

WHEREAS, the legislation could result in the shutdown of the City's Green Acres biosolids program and end an environmentally sound and economically feasible program that the City has owned and operated since 2000, and would create an emergency situation for the City and require extraordinary efforts to find acceptable disposal and recycling options for the majority of its biosolids;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-14 State Legislative Program OPPOSITION to AB 371 (Salas), which would permit Kern County to prohibit the land application of biosolids in its county and thereby force closure of the City's biosolids application program at the Green Acres Farm.

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013—14 REGULAR SESSION

ASSEMBLY BILL

No. 371

Introduced by Assembly Member Salas

February 14, 2013

An act to amend Section ~~120392.2~~ of the Health and Safety Code 13274 of the Water Code, relating to ~~health~~ sewage sludge.

LEGISLATIVE COUNSEL'S DIGEST

AB 371, as amended, Salas. ~~Immunizations~~—Sewage sludge: Kern County.

Existing law requires the State Water Resources Control Board or a California regional water quality control board, upon receipt of an application for waste discharge requirements for discharge of dewatered, treated, or chemically fixed sewage or other biological solids, to prescribe general waste discharge requirements for that sludge or those other solids. The California Integrated Waste Management Act of 1989, establishes an integrated waste management program that includes the regulation of solid waste disposal and solid waste facilities, and defines solid waste to include dewatered, treated, and chemically fixed sewage sludge that is not a hazardous waste.

This bill would authorize the Kern County Board of Supervisors, upon a majority vote, to regulate or prohibit by ordinance, in a manner more stringent than state or federal law and in a nondiscriminatory manner, the land application of sewage sludge in unincorporated areas in the jurisdiction of the county, as prescribed.

This bill would make legislative findings and declarations as to the necessity of a special statute for Kern County.

~~Existing law requires every skilled nursing facility, immediate care facility, and nursing facility, as defined, each year, commencing October 1 to the following April 1, inclusive, to offer immunizations for influenza and pneumococcal disease to residents, 65 years of age or older, receiving services at the facility, based upon the latest recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the latest recommendations of appropriate entities for the prevention, detection, and control of influenza outbreaks in California long-term care facilities.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 13274 of the Water Code is amended to
2 read:

3 13274. (a) (1) The state board or a regional board, upon receipt
4 of applications for waste discharge requirements for discharges of
5 dewatered, treated, or chemically fixed sewage sludge and other
6 biological solids, shall prescribe general waste discharge
7 requirements for that sludge and those other solids. General waste
8 discharge requirements shall replace individual waste discharge
9 requirements for sewage sludge and other biological solids, and
10 their prescription shall be considered to be a ministerial action.

11 (2) The general waste discharge requirements shall set minimum
12 standards for agronomic applications of sewage sludge and other
13 biological solids and the use of that sludge and those other solids
14 as a soil amendment or fertilizer in agriculture, forestry, and surface
15 mining reclamation, and may permit the transportation of that
16 sludge and those other solids and the use of that sludge and those
17 other solids at more than one site. The requirements shall include
18 provisions to mitigate significant environmental impacts, potential
19 soil erosion, odors, the degradation of surface water quality or fish
20 or wildlife habitat, the accidental release of hazardous substances,
21 and any potential hazard to the public health or safety.

22 (b) The state board or a regional board, in prescribing general
23 waste discharge requirements pursuant to this section, shall comply
24 with Division 13 (commencing with Section 21000) of the Public

1 Resources Code and guidelines adopted pursuant to that division,
2 and shall consult with the State Air Resources Board, the
3 Department of Food and Agriculture, and the Department of
4 Resources Recycling and Recovery.

5 (c) The state board or a regional board may charge a reasonable
6 fee to cover the costs incurred by the board in the administration
7 of the application process relating to the general waste discharge
8 requirements prescribed pursuant to this section.

9 (d) Notwithstanding any other law, except as specified in
10 subdivisions (f) to ~~(i)~~ (j), inclusive, general waste discharge
11 requirements prescribed by a regional board pursuant to this section
12 supersede regulations adopted by any other state agency to regulate
13 sewage sludge and other biological solids applied directly to
14 agricultural lands at agronomic rates.

15 (e) The state board or a regional board shall review general
16 waste discharge requirements for possible amendment upon the
17 request of any state agency, including, but not limited to, the
18 Department of Food and Agriculture and the State Department of
19 Public Health, if the board determines that the request is based on
20 new information.

21 (f) This section is not intended to affect the jurisdiction of the
22 Department of Resources Recycling and Recovery to regulate the
23 handling of sewage sludge or other biological solids for
24 composting, deposit in a landfill, or other use.

25 (g) This section is not intended to affect the jurisdiction of the
26 State Air Resources Board or an air pollution control district or
27 air quality management district to regulate the handling of sewage
28 sludge or other biological solids for incineration.

29 (h) This section is not intended to affect the jurisdiction of the
30 Department of Food and Agriculture in enforcing Sections 14591
31 and 14631 of the Food and Agricultural Code and any regulations
32 adopted pursuant to those sections, regarding the handling of
33 sewage sludge and other biological solids sold or used as fertilizer
34 or as a soil amendment.

35 (i) This section does not restrict the authority of a local
36 government agency to regulate the application of sewage sludge
37 and other biological solids to land within the jurisdiction of that
38 agency, including, but not limited to, the planning authority of the
39 Delta Protection Commission, the resource management plan of

1 which is required to be implemented by local government general
2 plans.

3 *(j) The Kern County Board of Supervisors, upon a majority*
4 *vote, may regulate or prohibit by ordinance, in a manner more*
5 *stringent than state or federal law and in a nondiscriminatory*
6 *manner, the land application of sewage sludge, including sewage*
7 *sludge imported from another California county, in unincorporated*
8 *areas in the jurisdiction of the county.*

9 *SEC. 2. The Legislature finds and declares that a special law*
10 *is necessary and that a general law cannot be made applicable*
11 *within the meaning of Section 16 of Article IV of the California*
12 *Constitution due to the unique and special problems associated*
13 *with the land application of sewage sludge in Kern County*
14 *requiring the control of sewage sludge for the public good.*

15 SECTION 1. Section 120392.2 of the Health and Safety Code
16 is amended to read:

17 ~~120392.2. (a) Each year, commencing October 1 to the~~
18 ~~following April 1, inclusive, every health care facility, as defined~~
19 ~~in subdivision (a) of Section 120392, shall offer, pursuant to~~
20 ~~Section 120392.4, immunizations for influenza and pneumococcal~~
21 ~~disease to residents, 65 years of age or older, receiving services at~~
22 ~~the facility, based upon the latest recommendations of the Advisory~~
23 ~~Committee on Immunization Practices (ACIP) of the federal~~
24 ~~Centers for Disease Control and Prevention, and the latest~~
25 ~~recommendations of appropriate entities for the prevention,~~
26 ~~detection, and control of influenza outbreaks in California~~
27 ~~long-term care facilities.~~

28 ~~(b) Each health care facility, as defined in subdivision (a) of~~
29 ~~Section 120392, shall offer, pursuant to Section 120392.4,~~
30 ~~pneumococcal vaccine to all new admittees to the health care~~
31 ~~facility, based on the latest recommendations of the ACIP.~~

32 ~~(c) The facility shall be reimbursed the standard Medi-Cal rate~~
33 ~~for an immunization provided to a Medi-Cal recipient, unless he~~
34 ~~or she is also a Medicare recipient whose coverage includes~~
35 ~~reimbursement for the immunization.~~