



EMERGENCY FUNDING PROPOSAL

Introduction

California recognizes that solid waste collection and processing is an essential public health and safety service, and it is imperative that it continue during this COVID-19 pandemic emergency situation. In California, the health and safety requirements related to solid waste management are set by the State, however responsibility for implementing those requirements is passed on to local governments. In most cases, those local governments retain expert solid waste management companies to actually provide the collection, processing, and disposal service in their communities in a manner consistent with statutory mandates. The members of the Resource Recovery Coalition of California (Resource Coalition) are the companies that provide these services.

These companies now face a financial crisis directly caused by the COVID-19 situation. As essential service providers, they continue to provide service up front without a guarantee of payment by the customers. However, the solid waste service providers are now facing a catastrophic loss of income from commercial accounts as businesses are forced to close to comply with the shelter-in-place orders. This jeopardizes the companies' ability to provide these vital essential services, remain a springboard for the economy, and prevent a future public health hazard.

We seek urgently needed support from the State Legislature and the Administration.

The Request

The Resource Coalition requests that the State appropriate funds, whether from the federal emergency aid package, State Reserves or General Fund, special funds, such as the Greenhouse Gas Reduction Fund under the Cap and Trade Program or the Beverage Container Recycling Fund, or a combination of those options to establish a fund which would temporarily support the companies and their employees in an amount sufficient to keep the companies operationally viable.

Our proposal would set the fund at an amount sufficient to reimburse the companies for the cost of labor and benefits for their employees for a period of one year, with retroactive application to March 19, 2020, when the state-wide stay at home order was issued. A state agency, such as CalEPA or the Employment Development Department (EDD), would administer the fund. Companies would apply for grants from the fund, based on need. Local jurisdictions who provide solid waste services with their own municipal resources would also be eligible. Distributions would be made directly to the service provider on a weekly basis and be based on verified payroll records from sources such as the Workers' Compensation Insurance Rating Bureau (WCIRB) and the (EDD). For example, payroll data can be easily compiled through the WCIRB by using the classification codes related to the solid waste industry. These codes include, but may not be limited to, 9403(1) Garbage or Refuse Collecting; 9403(2) Street Sweeping Service Companies; 9424(1) Garbage or Refuse Landfill, Transfer Station, and Material Recovery Facility Operations; 8847 Beverage Container Collection or Redemption; 8742



Salesperson – Outside; 8810 Clerical Office Employees – N.O.C. After the COVID-19 crisis subsides, local jurisdictions can work through their rate setting process to provide an annual payment, over a 20-year period, to reimburse the State for the funding advanced during the crisis.

The Resource Coalition estimates that the fund would require an initial minimum balance of at least \$1.2B to cover state-wide collection payroll and benefit costs for one year. This number is only an estimate and would need to be increased to account for post-collection and recycling labor.

We fully understand the magnitude of this request, but if moneys in this range are not provided, the companies will ultimately start going out of business, and, because this is an industry-wide issue, another service provider cannot simply step in and take over. Even the largest entities, in fact any business, cannot long survive a revenue reduction of as much as 50%, as many of our members are facing. Put another way, the total cost of this proposal would have to be paid by all California taxpayers if there were no solid waste service providers. Indeed, there will be significant General Fund impact or obligations to directly pay for services if the solid waste service providers start disappearing due to financial losses.

The rationale for our proposal appears below.

Revenue Losses Due to the Crisis Are Unsustainable

California's state/local government/service provider structure leaves really only one way for a service provider to seek additional compensation to make up for a *force majeure*-caused revenue loss, as the companies are currently experiencing. Solid waste service providers in California generally operate pursuant to agreements with the municipalities they serve, and their compensation is strictly regulated by those agreements. However, the actual compensation comes from only two principal sources, the residential and commercial ratepayers. So, while the local government sets and controls compensation through their agreements with the service providers, the money actually comes from the residents and businesses of California.

Contracts of all types generally include a provision allowing a party to be excused for failure to perform a contractual obligation due to a *force majeure* event, such as this. That is also the case with these solid waste contracts, however, as vital essential service providers, the Resource Coalition members have no intention of seeking to be excused from providing any essential solid waste service.

In *force majeure* situations like this, the agreements generally provide that the parties negotiate changes to service levels and, as necessary, compensation levels so that the service provider can continue to operate as best it can with sufficient revenues to stay financially viable. The companies are required to cut costs during the event as much as possible to mitigate the compensation increase required, and, as a practical matter, they are already doing so. However, there are many distinct costs of doing business, most of which are fixed, that cannot be reduced significantly enough to make up for a drastic reduction in one main source of revenue. Similarly, debt service cannot be reduced in



this scenario. For example, the bank will still expect principal and interest payments on the loan which was used to purchase commercial trucks, even if the trucks are taken out of service.

While some ancillary services may be suspended, and some costs cut, there will still be a huge shortfall in revenue. The primary focus of these *force majeure* discussions will be how to make up for the lost commercial revenues. Unfortunately, as noted above, the contracts will fail to resolve that problem. Raising residential rates would necessarily be the only place to go. Increasing residential rates 150-200% would be unfair in normal times and unthinkable currently as residents deal with their own COVID-19-related issues.

Financial help derived from the contracts is not practical. Adding significant financial burdens to the residential ratepayers who may already be struggling with the effects of the crisis is not fair or practical. Solid waste companies need immediate, direct relief to continue service and prevent increased public health and safety issues associated with uncollected solid waste.

Employees and Employment

Our members generally live in the communities they serve, and, for decades, they have invested in solid waste and recycling processes and technologies in their communities that have bolstered their local economies and created a significant number of jobs. As substantial local employers, relief is needed to maintain current jobs and increase employment as we recover from this crisis.

The companies are doing their best to avoid layoffs of their valued employees, and if they are going to be able to ramp up service post-crisis, they will need to retain these employees. This proposal will prevent disruption in operations and provide continuity of essential solid waste services through this emergency and during the inevitable recovery, while allowing employees to continue to support their families.

Summary

The Coronavirus pandemic is creating unprecedented challenges for the solid waste and recycling industry. We do not know how long this immediate crisis will continue, whether it will spike again in the fall, as some science has suggested, or whether another global health pandemic will affect us similarly in the future. Putting longer-term questions aside, the companies need the emergency funding proposed.

Thank you for all of your efforts during this State of Emergency and beyond. Feel free to reach out to the Resource Coalition representatives below:

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