

**SOLID WASTE AGENCY OF LAKE COUNTY, IL
LEGISLATIVE COMMITTEE
Thursday, December 19, 2019 10:30 am
1311 N. Estes Street Gurnee, IL 60031**

1. CALL TO ORDER.....Chairman Norris
2. ROLL CALLSecretary
3. APPROVAL OF MINUTES (*2018 minutes previously approved during 03.22.18 ECM*)
4. NEW AGENDA ITEMS
5. PUBLIC COMMENT ON AGENDA ITEMS
6. LEGISLATIVE COMMITTEE ITEMS.....Chairman Norris

Legislative Topics

- 2020 Legislative Policy, Standing Policies
- 2020 Legislative Policy, Top Priorities

7. ADJOURNMENT



SOLID WASTE AGENCY OF LAKE COUNTY, IL

2020 LEGISLATIVE POLICY – STANDING POLICIES

The Solid Waste Agency of Lake County (SWALCO) is a Municipal Joint Action Agency established to implement the Lake County Solid Waste Management Plan. SWALCO is comprised of 43 Lake County municipalities, the County of Lake and the Great Lakes Naval Base. SWALCO's Board of Directors established the Legislative Committee to develop a legislative policy for ultimate approval by the Board of Directors. The Legislative Committee implements the approved policy.

The following are SWALCO's standing or existing policies in key subject areas, which have been divided into state and federal levels.

STANDING LEGISLATIVE POLICY

SWALCO's legislative policy will be communicated to our elected representatives and will be used to provide input to organizations which SWALCO, or its members, are affiliated (for example: National Association of Counties, US Conference of Mayors, the Solid Waste Association of North America, Illinois Counties Solid Waste Management Association, Illinois Recycling Association, Lake County Municipal League, Northwest Municipal Conference and the Illinois Municipal League).

The following is a more detailed discussion of SWALCO's policy stance on key state and federal solid waste policy issues.

State Level

1. ISSUE: INFORMATIONAL SUPPORT FOR OUR STATE DELEGATION

The SWALCO Legislative Committee and staff will coordinate with the Lake County legislative delegation in reviewing legislative initiatives.

Discussion

SWALCO stays in close contact with its legislative delegation through ongoing discussions with our lobbyist, Mike Grady. SWALCO staff and members of the Legislative Committee will strive to meet in person with all members of the legislative delegation in the coming year either through our partnership with the Lake County Municipal League for the 2019 Legislative Breakfast, attending special meetings convened by legislators, or visiting with them while in Springfield.

It is also important for SWALCO to support its delegation on an on-going basis regarding issues as they arise in Springfield. The state representatives often do not have the staff required to complete detailed assessments of issues. However, this is an area where the Agency can assist its legislators.

2. ISSUE: PRODUCT STEWARDSHIP LEGISLATION

SWALCO will support legislation that fosters responsible product stewardship and responsibility. SWALCO will engage with manufacturers and other stakeholders to enact legislation that reduces the health, environmental and social impacts of consumer products throughout their life cycle, with the ultimate goal of responsibly managing products after their useful life to conserve resources and protect the environment and human health. This activity commonly known as “Product Stewardship” is very common throughout Europe and Canada and to a lesser degree in the United States where over 34 States have passed laws covering 12 different product categories (e.g., electronics, paint, mercury thermostats, and mattresses). One definition of Product Stewardship developed by the Product Stewardship Institute is, “the act of minimizing the health, safety, environmental and social impacts of a product and its packaging throughout the product life cycle, while maximizing the product’s economic benefits. The producer of the product has the greatest ability to minimize the adverse impacts; however, other stakeholders, such as suppliers, retailers and consumers, also play an important role. Stewardship can be either voluntary or required by law.”

Discussion

In the past several years SWALCO has been active on Extended Producer Responsibility (EPR) laws for electronics, paint, and carpet.

3. ISSUE: LOCAL SURCHARGE

Support amending the Illinois Environmental Protection Act to either eliminate exempting wastes from state and local fees imposed by units of local government (\$1.27 per ton) or increasing the fee. The authority to impose a local fee on the two in-county landfills has been a key funding source for SWALCO since its inception. Currently, the local surcharge fee represents approximately 65% of the funding for the Agency’s annual budget. Approximately 25% of the waste accepted at the landfills is exempt from the local surcharge, and the local surcharge fee of \$1.27 per ton has not been increased since the enactment of the Solid Waste Management Act in 1986. Further, SWALCO splits the local surcharge fee with the Lake County Health Department, with SWALCO receiving 75% of the fee and the Health Department the remaining 25%.

Discussion

The Task Force on the Advancement of Materials Recycling that SWALCO was appointed to in 2013 did not take a position or offer recommendations regarding the local or state surcharge fees in its 2015 final report to the General Assembly. In addition, the Solid Waste Management Fund, where the State fees are deposited, has been swept and continues to be swept due to the current fiscal situation in IL.

4. ISSUE: FOOD SCRAP COMPOSTING

The Agency will actively support legislation that promotes and supports the marketing of compost or enhances the market demand for compost derived from landscape waste alone or commingled with food scraps.

Discussion

With the passage of SB 99 in 2009 (which SWALCO supported and worked hard to see enacted) significant barriers to the development of food scrap composting sites were removed. SB 99 and the legislation passed in 2015, 2016 and 2017 have provided the necessary regulatory changes to further encourage the diversion of food scraps and other organics from the landfill. Seventeen SWALCO members now have provisions in their hauling contracts to allow the commingling of food scraps with landscape waste during the 8-month landscape waste season. Two members, Highwood and Lake Bluff have year-round organics programs. In addition, Grayslake became the first town in IL to provide a drop off for food scraps as allowed by HB 437, enacted in 2015.

5. ISSUE: RENEWABLE ENERGY FROM MSW SOURCES

Support the designation of municipal solid waste (MSW) derived energy as a renewable energy source. SWALCO may, on a case-by-case basis, support the establishment of renewable energy goals/requirements as a percentage of total energy output. This may also include support for tax credits and other incentives, including greenhouse gas offset credits that provide financial and/or environmental incentives for the development of renewable energy from MSW sources.

Discussion

Under current Illinois law, energy derived from municipal waste from non-landfill related uses does not count as a renewable energy source and therefore cannot be counted toward the 25% renewable portfolio standard per Illinois law (25% by 2025).

6. ISSUE: POLLUTION CONTROL FACILITIES

Oppose changes that affect the local authority's control over the siting of pollution control facilities.

Discussion

SWALCO firmly supports the current practice of having local units of government approve or deny the siting of pollution control facilities within their jurisdictions. This law has proven to be successful in Illinois. Any attempt to tamper with local control will be opposed by SWALCO. However, minor changes to the law that help streamline or clarify the process (often due to case law) will be evaluated on a case-by-case basis.

7. ISSUE: LANDFILL MATERIAL BANS

Oppose the banning of individual materials from landfills unless a viable alternative disposal technology and funding is available.

Discussion

Waste bans have been used previously to eliminate landscape waste, white goods, electronics and oil from municipal solid waste landfills. These bans have reduced the amount of material going to landfills. However, the infrastructure needed to support the alternative disposal plan is rarely in place. SWALCO believes that a two-year period is required to ban material from a landfill and to set up the alternative disposal technology. In this interim period, the state agencies can address the alternative disposal methodologies needed to handle the banned material.

8. ISSUE: ENVIRONMENTAL FEE TRANSFER

Oppose the transfer of any state fees imposed on municipal solid waste to offset any shortfall in general fund revenues.

Discussion

The State applies two fees on waste accepted at landfills: a Subtitle D fee (this refers to the portion of the federal law known as the Resource Conservation and Recovery Act, which regulates municipal waste landfills) and a solid waste fee. The Illinois Environmental Protection Agency, Bureau of Land (BOL) uses these fees for its programs. These fees are used for enforcement grants, which enable Lake County and others to inspect solid waste facilities. It is imperative that these fees stay in the BOL and not be used for other State purposes SWALCO does not support the transfer of fees to the general fund and supports the expansion of the enforcement program to other Illinois communities.

SWALCO is reliant on our agreement with the Illinois Environmental Protection Agency for funding the disposal of the household chemical wastes we collect in our program. Securing and maintaining funding for this agreement is of the greatest importance to SWALCO. Unfortunately, in 2017 the General Assembly swept another \$14 million from the Solid Waste Fund into the General Fund.

9. ISSUE: DEPOSIT LEGISLATION

Oppose the imposition of a deposit on beverage containers. A \$0.05 or \$0.10 tax on beverage containers will negatively impact our recycling program, create a tax on residents and penalize retailers.

Discussion

Eleven states have enacted this deposit legislation. Hawaii adopted a deposit system in 2002. The remaining states adopted a deposit system prior to 1987. Generally it is aimed

at reducing roadside litter by creating a financial incentive as well as recycling discarded materials. New York experienced a 30% reduction in roadside litter with their bottle bill.

SWALCO has approved a Capacity Agreement (effective January 1, 2009) with Waste Management Recycle America that will pay SWALCO members for their recyclables based on the actual value or blended value of the recyclables. Under the Agreement, if Illinois or the federal government enacts a bottle bill, WMRA has the authority under the Agreement to assess the impact of the bottle bill on its operations and potentially alter the terms of the Agreement as it relates to the amount paid for SWALCO members' recyclables.

Deposit legislation can expand access to the recycling system to all residents, but handling of deposit containers, either through retail stores or redemption, is an increased burden from a transportation and space standpoint - such as additional trips by residents to redeem containers and space required by retailers to store deposit containers. This financial burden on retail stores may be partially offset by the fees imposed by the deposit. The deposit is an additional tax on residents when they fail to redeem their containers. Curbside recycling represents a convenient way for residents to recycle their beverage containers.

10. ISSUE: LEAF BURNING BAN

The Agency will support a leaf burning ban bill, which provides for local control of burning ordinances.

Discussion

Over the last several years, SWALCO considered supporting a ban on burning leaves. Landscape waste is prohibited from being disposed of in landfills. Therefore, property owners must compost/mulch leaves at home, subscribe to a service for collection (which costs money) or burn them. Many member communities have banned or restricted the burning of leaves within their communities, while other communities have decided to not restrict the burning of leaves.

Burning leaves creates particulate emissions and causes the release of chemicals in the burning process. Many residents suffer respiratory distress as a result of this process. Leaf burning is a significant air pollution hazard and may be an increased health risk to humans. The Agency will consider supporting a leaf burning ban bill which provides for local control of burning ordinances.

Federal Level

1. ISSUE: INTERSTATE WASTE

Support federal legislation which recognizes and "grandfathers" current interstate waste transport and disposal. Any bill that limits the future importation or exportation of waste should be evaluated to assess its impact on SWALCO's members before a final policy position is taken.

Discussion

Midwest states do not want to be considered dumping grounds for east coast or Canadian generated waste. Many communities, however, signed agreements to accept waste from outside of their state when their local landfill was developed. They benefited in this arrangement by receiving host fees for this waste. Several states, primarily Michigan with its concerns over waste imports from Canada, have attempted to enact federal legislation to limit or restrict the flow of waste from other states and/or countries. In Illinois we recognize that a significant quantity of Chicago metro waste is transported to landfills in Wisconsin, Michigan and Indiana. Any federal attempt to legislate the flow of waste must be closely scrutinized and evaluated before a position can be taken.

2. ISSUE: FLOW CONTROL

Take no action on flow control, other than to work with other solid waste and municipal organizations to monitor the progress of any flow control legislation and ensure that local governments can institute franchise refuse collection and continue to act as a market participant to direct their waste and/or recyclables to facilities pursuant to competitively bid contracts.

Discussion

The US Supreme Court has upheld the right of communities to enact flow control by acting as a market participant. The Court went further with its April 30, 2007 decision in the United Haulers v. Oneida-Herkimer Solid Waste Management Authority case where the Court sustained the flow control ordinances of the Waste Authority. The Court held that directing waste or recyclables to publicly owned facilities was constitutional. The Court has now created a public-private distinction with respect to the Commerce Clause of the U.S. Constitution.

This means that SWALCO has the legal authority to direct its waste and recyclables to publicly owned disposal sites and recycling centers. What isn't clear in the decision is what ability public entities have to direct materials to privately owned or operated facilities. Regardless, SWALCO does have the authority to act as a market participant and direct materials to facilities as part of competitively bid contracts.

3. ISSUE: RENEWABLE ENERGY FROM MSW SOURCES

Support the designation of municipal solid waste (MSW) derived energy as a renewable energy source. SWALCO may, on a case-by-case basis, support the establishment of renewable energy goals/requirements as a percentage of total energy output. This may also include support for tax credits and other incentives, including greenhouse gas offset credits that provide financial and/or environmental incentives for the development of renewable energy from MSW sources.

Discussion

Methane gas energy production is an example of energy production from waste sources. The primary method of waste management in Lake County is landfilling. Both in-county

landfills collect and generate energy from methane gas. This capability is facilitated through tax incentives. It is also a source of renewable energy production.

Also of interest is energy derived from alternative waste management technologies including anaerobic digestion and MSW gasification. Both technologies are well proven with other feed stocks, but have yet to be utilized for MSW in the U.S. due to unfavorable economics and the U.S.'s continued reliance on landfilling. Several alternative technology projects are proceeding in both California and Florida. Essential to the economics of these projects is the designation of the energy as a renewable energy source. Large utilities are now searching for renewable energy projects and are often willing to pay a premium for the energy. These projects also have the potential to reduce the amount of greenhouse gases (GHG) emitted in the production of energy, especially as related to coal power plants.

4. ISSUE: PRODUCT STEWARDSHIP AND PRODUCER RESPONSIBILITY

Support legislation that fosters responsible product stewardship and producer responsibility. Most attention is currently focused on the electronics industry. SWALCO supports a national policy, but in the absence of a national policy will support a state-based program (please refer to the state level discussion).

Discussion

Product stewardship is a product-centered approach to environmental protection. Product stewardship calls on all those in the product life cycle--manufacturers, retailers, users, and waste managers --to share responsibility for reducing the environmental impacts of products.

Product stewardship recognizes that product manufacturers should take on new responsibilities to reduce the adverse environmental impact of their products. However, all participants in a product life cycle, including retailers, consumers, and waste managers have important roles to play in working in cooperation with product manufacturers to develop the most workable and cost-effective solutions.

From a solid waste manager's perspective, product stewardship refers to the actions that should be taken with respect to product design, reuse, collection, recycling and disposal in order to avoid adverse environmental impacts from the disposal of the product. Manufacturers must design their products to facilitate disassembly and recycling. Consumers must be educated on how to properly dispose of products. Education can be approached through information developed by manufacturers and provided to consumers through product stickers, operation manuals and advertising. Most importantly, an infrastructure must be developed to properly and responsibly handle the product if it's diverted from the municipal solid waste stream



SOLID WASTE AGENCY OF LAKE COUNTY, IL

2020 LEGISLATIVE POLICY – TOP PRIORITIES

The Solid Waste Agency of Lake County (SWALCO) is a Municipal Joint Action Agency established to implement the Lake County Solid Waste Management Plan. SWALCO is comprised of 43 Lake County municipalities, the County of Lake and the Great Lakes Naval Base. SWALCO's Board of Directors established the Legislative Committee to develop a legislative policy for ultimate approval by the Board of Directors. The Legislative Committee implements the approved policy.

SWALCO has developed two documents related to its legislative policy: 1) 2020 Legislative Policy – Standing Policies, and 2) 2020 Legislative Policy – Top Priorities. The Standing Policies represent SWALCO's current viewpoint on key solid waste related issues on both the state and federal levels. This document, Top Priorities, outlines legislation the Agency intends to pursue in 2020.

Top Priorities for 2020

1. Plastic Bag Fee (SB 1240)

Last session SWALCO continued to work with Senator Link and the interested stakeholders on SB 1240. While the plastic bag fee was mentioned in the Governor's budget address and was included in consideration in the budget implementation bill it did not make it into the final budget bill due to concern that the bag fee was one too many fees (along with all the other fee increases approved) and did not generate sufficient revenue to be worth the political push back. SWALCO is hearing that the IL Environmental Council has asked Senator Bush to file its competing bill that does not include the pre-emption provision that both IRMA and IMA demand be in the bill. SWALCO will have to review the bill if filed by Senator Bush and decide whether to support, oppose or go neutral. The highlights of SB 1240 include the following:

- A 7-cent fee per carryout bag (both plastic and paper) would be implemented statewide, not including Chicago.
- The 3 cents allocated to county government/MJAs (2 cents would go to the retailer, and 2 cents to the State) would have to be spent on environmental programs related to HHW, recycling, and plan implementation. It is estimated that the fee could generate approximately \$900,000 in Lake County alone (approximately \$1.33 per person per year based on Chicago's experience with its ordinance).
- There is a pre-emption provision related to county and municipal government not being permitted to regulate or ban "auxiliary containers" and carryout bags.

2. Carpet Recycling, Extended Producer Responsibility (SB 557)

Senator Bush introduced SB 557 in the 2019 session and the bill moved out of the Senate on a unanimous vote. The House sponsor, Rep. Zalewski, asked that SWALCO and the other proponents of the bill attempt to work out a compromise with the opponents, primarily the three large carpet companies located in Dalton, GA. Attempts were made to have discussions with the opponents, but ultimately they declined an invitation to meet and discuss the bill, and made it clear they intend to oppose the bill and not negotiate at this time. The bill has been amended in attempts of getting the IEPA and IRMA to neutral, and it appears we are getting very close to getting them neutral. That will leave only the IMA and the carpet industry from Georgia opposing a bill that is supported by nearly a dozen companies that have committed to building facilities in IL and/or using carpet as a feedstock. Over the fall and winter of 2019 SWALCO has been working closely with its lobbyist and the supporting industries and held a meeting with the Governor's economic development staff and continue discussions with IEPA and IRMA. The amended bill will be re-introduced in the 2020 session with the goal of passage in 2020. SWALCO continues to support this bill.

3. Pharmaceuticals and Sharps Collection, Extended Producer Responsibility (HB 349)

Last session the IL Environmental Council introduced HB 349 at the request of the Chicago MWRD. The bill was modeled after a California bill that did become law. The bill needed work to become more IL specific and IEC let all stakeholders know that it did not intend on moving the bill in 2019. This outlook has changed in 2020 with more discussions being held and possible support from IRMA if the law is modified to include pharmaceuticals only and to allow for cost reimbursement for retailers that voluntarily collect pharmaceuticals. SWALCO has been keeping Lake County apprised of this bill and the County has taken a position of support for the bill so far. SWALCO will continue to support this bill and work closely with Lake County as well.

4. Other Potential Issues

- Legislation to allow more landscape waste transfer stations to accept food scraps without local siting required. We helped pass a law for DK Organics' landscape waste transfer station in Lake Bluff two sessions ago.
- Legislation and/or advocacy to increase the use of finished compost on road related projects and/or agricultural lands'
- Legislation to enhance the Good Samaritan Act, which addresses the donation of food to food recovery organizations. As part of the composting programs SWALCO is pursuing with businesses and schools, the donation of food is a top priority to help feed those in need and to reduce disposal costs.
- Advocating that the IEPA ask for more appropriations from the Solid Waste Fund for programs in FY 2021. In the past the Fund generates approximately \$20M per year in revenue with IEPA only appropriating \$13M to \$14M. The surplus is left in the Fund which as swept as recently as 2 years ago of \$10M by the General Assembly.