

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: April 26, 2021

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

FROM: Sharon M. Tso  Council File No: 21-0002-S91
Chief Legislative Analyst Assignment No: 21-04-0292

SUBJECT: AB 478 (Ting), AB 649 (Bennett), AB 881 (Gonzalez)

CLA RECOMMENDATION: Adopt the attached Resolution (O’Farrell – Koretz –Krekorian – Blumenfield) to include in the City’s 2021 - 2022 State Legislative Program SUPPORT for AB 478 (Ting), AB 649 (Bennett), and AB 881 (Gonzalez), which seek to promote good recycling initiatives and practices.

SUMMARY

On March 31, 2021, a Resolution (O’Farrell – Koretz –Krekorian – Blumenfield) was introduced in Council to support AB 478 (Ting), AB 649 (Bennett), and AB 881 (Gonzalez). AB 478 would add Chapter 6.2 (commencing with Section 42375) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, AB 649 would add Section 40403 to the Public Resources Code, relating to solid waste, and AB 881 would add Section 41781.4 to the Public Resources Code, relating to solid waste. The Resolution states that AB 478 (Ting) seeks to set the minimum recycled content requirements for plastic thermoform food containers, starting at 10 percent and reaching 30 percent by January 1, 2030; and it would expand the use of recycled content in food packaging therefore, minimizing the impact of plastics on the environment and furthering good recycling practices. AB 649 (Bennett) seeks to establish the Office of Environmental Justice and Tribal Relations within CalRecycle, the State’s solid resources and recycling regulatory agency. The bill would ensure that the Department of Resources Recycling and Recovery’s (CalRecycle/Department) programs effectively address the needs of disadvantaged communities, low-income communities and California Native American Tribes. AB 881 (Gonzalez) seeks to close the loophole in State law that enables exported mixed plastic waste to be deemed recycled even when it is landfilled, burned or improperly managed. The Resolution also states the bill would increase transparency and accountability in recycling efforts; ensuring that recycling truly means recycling. Therefore, the Resolution requests that the City support AB 478, AB 649, and AB 881.

BACKGROUND

An estimated thirty-five million tons of waste are disposed of in California’s landfills annually. CalRecycle is tasked with overseeing the diversion of at least 75 percent of solid waste from landfills Statewide by 2020. Local governments have been required to divert 50 percent of the waste generated within their jurisdiction from landfill disposal since 2000. The California Integrated Waste Management Act of 1989, administered by CalRecycle, requires a rigid plastic packaging container, sold or offered for sale in the State, to meet, on average, at least one of five specified criteria, including that the container be made from 25 percent postconsumer material. On

February 8, 2021, Assembly Member Ting introduced AB 478 which would, beginning January 1, 2024, require the total thermoform plastic containers sold by a producer in the State to contain on average, no less than 30 percent postconsumer recycled plastic per year on and after January 1, 2030. The bill would authorize the CalRecycle to conduct audits, investigations, and take an enforcement action against a producer to ensure compliance. AB 478 would impose annual administrative penalties on a producer for violating these requirements. The bill would establish the Recycling Enhancement Penalty Account, and require the collected administrative penalties to be deposited into this account. By March 1 of each year, under penalty of perjury, the producer would be required to report to the Department, the type of plastic and amount used to manufacture the thermoform plastic containers sold or offered for sale in the State in the previous calendar year. Any information reported would be required to be made public information on the Department's website.

On February 12, 2021, Assembly Member Bennett introduced AB 649. AB 649 would establish the Office of Environmental Justice and Tribal Relations within CalRecycle. The bill would prescribe the duties of the office, including, among others, ensuring that the Department's programs effectively address the needs of disadvantaged communities, low-income communities, California Native American tribes, and farmworkers. The Office of Environmental Justice and Tribal Relations would be responsible for providing an evaluation of a range of strategic, scientific, technological, regulatory, and economic issues for the Department related to environmental justice and tribal relations. The CalRecycle would integrate environmental justice considerations into department programs, policies, and initiatives.

The office would address ways to decrease the environmental impacts on those communities disproportionately burdened by environmental harm and risks. AB 649 would strengthen partnerships with other governmental agencies at the federal, city, county, and tribal level regarding environmental justice issues. The bill would also enhance research and assessment approaches related to environmental justice; and collaboration with impacted communities and governmental agencies to promote equitable data collection regarding environmental burdens. The bill would also improve access to technical resources for disadvantaged communities.

Shipping plastic waste to other countries should not be considered recycling. In spite of generating the most plastic waste in the world, the United States has not developed significant processing venues or markets for recycled plastic. Approximately 50 percent of plastic waste collected for recycling in the United States is exported. In 2016, 88 percent of that material was exported to countries that lack the infrastructure to properly manage it. On February 7, 2021, Assembly Member Gonzalez introduced AB 881, which would establish standards for exported mixed plastic waste in order to be credited towards a local jurisdiction's solid waste diversion rate. Under existing law, the Integrated Waste Management Act requires that local governments divert at least 50 percent of solid waste from landfill disposal through source reduction, recycling, and composting. AB 881 would specify the export of mixed plastic waste does not constitute recycling for purposes of calculating a local jurisdiction's diversion rate, unless the plastic waste meets both of the following requirements: the mixed plastic waste is a mixture consisting of polyethylene, polypropylene, or polyethylene terephthalate and the export is destined for separate recycling of each material; and the mixed plastic waste export is not prohibited by an applicable law or treaty of the country of destination and the import of the plastic waste into the country will be conducted in accordance with all applicable laws and treaties of that country.

According to a publication entitled *The New Plastics Economy: Rethinking the Future of Plastics* (January 2016) by the World Economic Forum, plastics are estimated to comprise 60-80 percent of all marine debris and 90 percent of all floating debris by 2050. There will be more plastic than fish in the ocean if we keep producing and failing to properly manage plastics at predicted rates. The City has provided strong recycling-oriented services to more than 750,000 households for over two decades; therefore, the City should support AB 478, AB 649, and AB 881. In this manner, the City can continue to improve the health and welfare of the environment and its residents.

BILL STATUS

AB 478

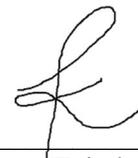
04/14/21 From committee: Do pass and re-refer to Committee (Com.) on Judiciary (JUD.) (Ayes 8. Noes 0.) (April 14). Re-referred to Com. on JUD.
03/22/21 Re-referred to Com. on Natural Resources (NAT. RES.)
03/18/21 From committee chair, with author's amendments: Amend, and re-refer to Com. on NAT. RES. Read second time and amended.
03/18/21 Referred to Coms. on NAT. RES. and (JUD).
02/09/21 From printer. May be heard in committee March 11.
02/08/21 Read first time. To print.

AB 649

03/15/21 Re-referred to Com. on NAT. RES.
03/11/21 From committee chair, with author's amendments: Amend, and re-refer to Com. on NAT. RES. Read second time and amended.
03/11/21 Referred to Com. on NAT. RES.
02/13/21 From printer. May be heard in committee March 15.
02/12/21 Read first time. To print.

AB 881

04/13/21 Re-referred to Com. on Appropriations (APPR.)
04/12/21 From committee chair, with author's amendments: Amend, and re-refer to Com. on APPR. Read second time and amended.
03/25/21 From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 0.) (March 24). Re-referred to Com. on APPR.
03/25/21 Coauthors revised.
03/17/21 Re-referred to Com. on NAT. RES.
03/16/21 From committee chair, with author's amendments: Amend, and re-refer to Com. on NAT. RES. Read second time and amended.



Kimberly A. Tejada
Analyst

SMT:kat

Attachments: Resolution (O'Farrell – Koretz –Krekorian – Blumenfield)

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 government body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City provides solid resources collection services to more than 750,000 households which includes a strong recycling-oriented focus; and

WHEREAS, the UCLA Engineering Extension's Municipal Solid Waste Management Program reported that the City has achieved a recycling rate of 76.4% which gives it the highest recycling rate out of the 10 largest U.S. cities; and

WHEREAS, the City has been on the forefront of recycling-oriented initiatives and has also supported State legislation that promotes good recycling practices that enhance its efforts; and

WHEREAS, AB 649 (Bennett) seeks to establish the Office of Environmental Justice and Tribal Relations within CalRecycle, the State's solid resources and recycling regulatory agency; and

WHEREAS, AB 649 would ensure that CalRecycle's programs effectively address the needs of disadvantaged communities, low-income communities and California Native American Tribes; and

WHEREAS, AB 881 (Gonzalez) seeks to close the loophole in State law that enables exported mixed plastic waste to be deemed recycled even when it is landfilled, burned or improperly managed; and

WHEREAS, AB 881 would increase transparency and accountability in recycling efforts; ensuring that recycling truly means recycling; and

WHEREAS, AB 478 (Ting) seeks to set minimum recycled content requirements for plastic thermoform food containers, starting at 10% and reaching 30% by January 1, 2030; and

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WHEREAS, AB 478 would expand the use of recycled content in food packaging thereby minimizing the impact of plastics on the environment and furthering good recycling practices;

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 2021-2022 State Legislative Program SUPPORT for AB 649 (Bennett), AB 881 (Gonzalez) and AB 478 (Ting) which seek to promote good recycling initiatives and practices and will enhance the City's recycling efforts.



PRESENTED BY: _____
MITCH O'FARRELL
Councilmember, 13th District

PAUL KORETZ
Councilmember, 5th District



PAUL KREKORIAN
Councilmember, 2nd District



SECONDED BY: _____
BOB BLUMENFIELD
Councilmember, 3rd District