



City of Oakland

Office of the City Clerk
Oakland City Hall,
1 Frank H. Ogawa Plaza,
Room 201
Oakland, California 94612

Legislation Details (With Text)

File #: 003719 **Version:** 1 **Name:** A request from Vice Mayor Nadel for a resolution declaring the City's support for SB 20 (Hazardous Electronic Waste Recovery, Reuse and Recycling Act of 2003) by Senator Sher; on the June 19, 2003 Rules and Legislation Committee (an urgency finding is nee

Type: ORA Resolution **Status:** Passed

File created: 6/11/2003 **In control:** Meeting of the Oakland City Council

On agenda: **Final action:** 7/15/2003

Title: Subject: Senate Bill 20-Hazardous Electronic Waste
From: Vice Mayor Nadel
Recommendation: Adopt a Resolution declaring the City's support for Senate Bill 20 (Hazardous Electronic Waste Recovery, Reuse and Recycling Act of 2003) by Senator Sher

Sponsors:

Indexes:

Code sections:

Attachments: 1. 77920 CMS.pdf

Date	Ver.	Action By	Action	Result
7/15/2003	1	Meeting of the Oakland City Council	Adopted	Pass
6/19/2003	1	*Rules & Legislation Committee	Approved the Recommendation of Staff, and Forward	Pass
6/12/2003	1	*Rules & Legislation Committee	Scheduled	

Subject: Senate Bill 20-Hazardous Electronic Waste
From: Vice Mayor Nadel
Recommendation: Adopt a Resolution declaring the City's support for Senate Bill 20 (Hazardous Electronic Waste Recovery, Reuse and Recycling Act of 2003) by Senator Sher

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OAKLAND CITY COUNCIL

RESOLUTION NO. C.M.S

INTRODUCED BY COUNCIL4FMBER

A RESOLUTION DECLARING THE CITY OF OAKLAND'S POSITION ON THE FOLLOWING 2003 STATE LEGISLATION:

SUPPORT FOR: SI3 20 (Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003) by Senator Sher

WHEREAS, the City of Oakland or its residents would be affected by the pending State Legislation; and

WHEREAS, SB 20 (Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003) by Senator Sher would enact the Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003, which, if adopted would phase out the use of hazardous materials in the manufacturing of electronic devices sold in the state and establish the California Integrated Waste Management Board (Board) to administer a state hazardous electronic waste recovery, reuse, and recycling program; and

WHEREAS, SB 20 (Sher) would require a manufacturer or registrant of an electronic device containing hazardous materials in the state either to prepare and submit to the Board a hazardous electronic waste recovery plan that demonstrates that 50% on or after January 1, 2005, 70% on or after January 1, 2007, and 90% on or after January 1, 2010 of the hazardous electronic devices discarded in the state is reused or recycled; or as an alternative to a recovery plan, a manufacturer or registrant of an electronic device containing hazardous material may remit to the Board a fee, equal to the net cost of collecting, processing and recycling the discarded hazardous device; and

WHEREAS, SB 20 would create a hazardous electronic waste recovery, reuse, and recycling account in the Integrated Waste Management Fund to: (1) provide recycling incentive payments to

hazardous electronic material handlers that collect and process electronic devices containing hazardous materials; (2) provide -rant funds to local government for the cleanup of illegally dumped electronic devices containing hazardous materials and for establishing and maintaining local programs that supplement the private sector recycling programs; (1) provide grants to non profit agencies that accept for recycling electronic devices containing hazardous materials; (4) provide financial incentives to manufacturers of electronic devices containing hazardous materials to encourage consumers to return the devices for processing, or recycling, and to assist manufacturers in collecting processing, or recycling of electronic devices containing hazardous materials: (5) establish a public information program to educate the public on the hazards of improper hazardous electronic device storage and disposal and on the opportunities to recycle electronic devices containing hazardous materials; and (6) r vide fuiLdink4jor the Board to implement and enforce the bill: and Item

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July 15, 2003 WE

WHEREAS, on May 30, 2002 the city declared a position to support SB 1523 by Senator Sher and SB 1619 by Senators Romero and Sher that, if enacted, would have established a state electronics waste recycling program; but which were vetoed by Governor Davis as the bills did not address a

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comprehensive approach that included partnering with products manufacturers, while establishing recyclina tar-ets; now therefore, be it

RESOLVED: that the City of Oakland declares its support for SB 20 (Hazardous Electronic Waste Recovery, Reuse, and Recycling) by Senator Sher; and be it

FURTHER RESOLVED: that the City Council directs the City Manager and the City's legislative lobbyist to advocate for the above position in the State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, 2003

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, and
PRESIDENT DE LA FUENTF

NOES -
ABSENT-
ABSTENTION -

ATTEST:
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

Item 10. t-7
ORA/Council
July 15, 2003

CITY OF OAKLAND
BILL ANALYSIS
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DEPARTMENT INFORMATION

Contact: Ferial Mosley Date: 5/30/2003

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Bill Number: SB 20 Bill Author: Sher

Topic: Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003

RECOMMENDED POSITION: Support

Summary of the Bill

SB 20 would phase out the use of hazardous materials in the manufacture of electronic devices which currently contain hazardous materials and establish a state electronic waste recovery program that will be implemented by the California Integrated Waste Management Board (Board). Manufacturers or registrants of electronic devices containing hazardous materials sold in the state will either be required to submit an electronic waste recovery plan; or pay a fee to the Board in lieu of the plan. The Board will deposit the fees in an established hazardous electronic waste recovery fund. The funds will be disbursed to local governments, manufacturers, materials handlers and processors, and non-profit organizations for the reuse and recycling of electronic devices containing hazardous materials. Additionally, the funds will be used by the Board to enforce and administer the bill.

Background

On May 30, 2002 the City of Oakland declared a position in support of SB 1523 by Senator Sher and SB 1619 by Senators Romero and Sher. If enacted, the bills would have established a state electronics waste recycling program. However, SS 1523 and SB 1619 were vetoed by Governor Davis. The Governor indicated the bills did not address a comprehensive approach that included partnering with products manufacturers, while establishing recycling targets.

Positive Factors for Oakland

SB 20 will provide local governments with funds for the cleanup of illegally dumped electronic devices containing hazardous materials and maintaining and supplementing existing reuse and recycling programs. Although electronic waste recycling options are available to Oaklanders, the process is expensive (\$25 per item). Currently, electronic devices are found illegally dumped possibly due to the high cost for disposal which requires recycling, causing the City to bear the cost of cleanup and proper disposal. If enacted, SB 20 will provide funding to develop more convenient and to properly dispose of discarded electronic devices containing hazard

Additionally, manufacturers will be required to share the responsibility in recovering the discarded electronic devices containing hazardous materials that they initially sell in Oakland.

Negative Factors for Oakland

The City, its residents and businesses will incur an indirect cost when purchasing electronic devices that contain hazardous materials.

Other Information:

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- 1 Urgent (top priority for city lobbyist, city position required ASAP)
- X-2 Very Important (priority for city lobbyist, city position necessary)
- 3 Somewhat Important (position desired if time and resources are available)
- @4 None (do not review with City Council, position not required)

Other known support:

- Alameda County Board of Supervisors
- Allied Waste, Inc.
- As you Sow
- California Against Waste
- California State association of Counties
- Environmental Entrepreneurs (E2)
- City and County of San Francisco
- City of Cupertino
- City of Sunnyvale
- League of California Cities
- HMR: Los Angeles and San Francisco
- Humboldt Waste Management Authority Board of Directors
- Marin County Hazardous and Solid Waste Management Joint Powers

Authority

- Natural Resources Defense Council
- Norcal Waste Systems, Inc.
- Planning and Conservation League
- Sierra Club
- SoCal Computer Recyclers, Inc.
- Sonoma County Waste Management Agency

- Urban Corps of San Diego
- Waste Management

Other known opposition:

- American Electronic Association
- California Manufacturers & Technology Association
- Electronic Industries Alliance

Is state/federal legislative committee analysis available? (if yes, please attach)

Yes. Copy of Senate bill analysis attached.

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Byron D. Sher, Chairman

2001-2002 Regular Session

BILL NO: SB 20

AUTHOR: Sher

AMENDED: As Proposed To Be Amended

FISCAL: Yes HEARING DATE: May 12, 2003

URGENCY: Yes CONSULTANT: Kip Lipper

SUBJECT HAZARDOUS ELECTRONIC WASTE
RECOVERY, REUSE, AND RECYCLING

SU14MARY

Existina law

1)Under the federal Resource Conservation and Recovery Act of 1976 (RCRA) and subsequent amendments to the Act, generally requires the US Environmental Protection Agency (US EPA) to establish standards and regulation for the management and disposal of hazardous materials and wastes.

2)Under the California Integrated Waste Management Act
1DjViS4on 30 (commencing with Section 40000) of the Public
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Resources Code):

a) Requires local agencies to divert, through source reduction, recycling, and composting, 50% of solid waste disposed by their jurisdictions by the year 2000.

b) Requires local enforcement agencies @LFA's) for solid waste (generally cities or counties) to enforce statewide minimum enforcement standards for solid waste handling and disposal.

c) Establishes a statewide household hazardous substance information and collection program within the California Integrated Waste Management Board (CIWMB), which consists of public education and local government planning, assistance and funding through grants administered by the board, for the purposes of ensuring the proper and safe disposal of household hazardous substances.

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[http://www.leginfo.ca.gov/pub/bill/User/Sb_0001-0050/sb_20_cfa_20030509_184221_sen ... 5/20/2003](http://www.leginfo.ca.gov/pub/bill/User/Sb_0001-0050/sb_20_cfa_20030509_184221_sen_..._5/20/2003_1_)
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d) Establishes a series of special solid waste reduction and market development programs administered by the CIWMB for wastes ranging from metallic discards, paper, compost materials, plastic trash bags, and rigid plastic beverage containers.

3) Under Chapter 6.5 (commencing with Section 25000) of the Health and Safety Code, which generally governs the authority of the Department of Toxic Substances Control (DTSC) to regulate hazardous materials and wastes and ensures that the state is delegated authority under RCRA:

a) Requires DTSC to adopt, and revise as appropriate, standards and regulations for the management of hazardous wastes for the protection of the public health, domestic livestock, wildlife, or the environment.

b) Requires DTSC to maintain its hazardous waste disposal program in a manner which, at minimum, meets the requirements of the federal RCRA in order to maintain federal delegation of its program.

4111 rider Title 22 of the California Code of Regulations (CCRI adopted by DTSC pursuant to the statutory authority described under (3) above:

a) Establishes a "Universal Waste Rule" under which high volume, relatively low-risk hazardous wastes (e.g. batteries, florescent lamps, cameras, etc.) are exempted from standard and more stringent hazardous waste management rules but are subject to less comprehensive management and disposal requirements commensurate with the risks they pose.

b) Requires persons other than households and small businesses, who generate, handle, collect, transport or recycle cathode ray tube materials (CRT's), as defined, to manage those wastes as universal wastes and prohibits their disposal in solid waste disposal facilities.

This bill enacts the Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003 which does all of the

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following:

1) Defines "hazardous electronic device" to be a consumer

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product, component or device that uses an electric current and which DISC determines is hazardous material or hazardous waste. Hazardous electronic devices include, but are not limited to computer monitors, televisions and other devices containing lead.

2) On or before January 1, 2007, and modeled on the Product Stewardship Initiative adopted by the European Union, requires DTSC to adopt regulations establishing dates and procedures for the phase out of hazardous materials used in the manufacture of hazardous electronic devices by the earliest feasible date.

3) On or before January 1, 2005, requires DTSC to adopt regulations prohibiting the use of devices that prevents or impedes the recycling of hazardous electronic devices.

4) Prohibits the sale of hazardous electronic devices in the state by a manufacturer unless that manufacturer demonstrates to the CTWMB:

a) That it has prepared and implemented a hazardous electronic waste recovery plan the demonstrates that it will provide a cost-free and convenient opportunity for consumers to recycle such devices.

b) That it complies with other requirements of the bill such as placing its brand label on each device it sells in the state, meeting specified targets for the recycling of the waste, reporting its actions and making specified information available to the board, and ensuring that the waste is not improperly exported and disposed in other countries.

5) Establishes procedures and deadlines for the CIWMB to review, amend, approve or disapprove hazardous electronic waste recovery plans and authorizes the board to impose a fee to cover the board's reasonable costs in implementing the program.

6) As an alternative to filing a hazardous electronic waste recovery plan, authorizes a manufacturer to remit to the board a fee that is calculated to pay the net average cost of collecting, processing, and recycling hazardous electronic waste.

7) Provides that -he @mposir_on Df the fee is a matter of statewide importance and preempts local agencies from

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enacting similar fees.

8) Authorizes the CIWMS to impose administrative Civil penalties of up to \$2,500 per violation for violations of the aforementioned provisions, and to seek civil penalties of up to \$5,000 per violation in court.

9) Establishes procedures for the CIWMB to administer the program, establishes a special fund in the state treasury into which fee and fine or penalty revenues shall be deposited, and specifies how those funds may be spent by the board.

10) Prohibits state agencies from procuring hazardous electronic devices unless the manufacturer demonstrates compliance with the aforementioned provisions.

11) Provides that the board shall not implement the bill's provisions if a federal law is enacted that meets similar standards to those provided under the bill, or if a court enters a final judgment that holds that the fee imposed on manufacturers under the bill is not applicable to out-of-state manufacturers.

12) Makes findings and declarations relative to electronic waste products, and defines specified terms used in the bill.

13) Contains an urgency clause.

COMMENTS

1) Purpose of the Bill According to the author and supporters of the bill, this measure is intended to ensure that so-called electronic or "E" wastes, are properly

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collected, recycled, refurbished, or disposed. The author notes that, in recent months, E-waste has become a significant environmental hazard and concern to environmental groups, the press, and the general public. Yet, state government has no program which addresses this segment of the waste stream. The purpose of this measure is to establish a program to promote the efficient and cost-effective collection and processing of e-waste to ensure that they do not pose a threat to public health and the environment.

2) Opponents State Bill Creates overly Comiolex, veriv Br
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and Scientifically Unsound Process for E-Waste Recvclng

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opponents to this measure, principally electronics manufacturers, state that this measure "attempts to create an overly complex system which does not build on the environmental principle of shared responsibility and proposes to phase out necessary materials with no scientific justification."

The opponents state that the bill undermines efficient and equitable environmental approach of shared responsibility, and that the scope of regulated products is overly broad and ignores critical product category distinctions. They contend that the bill creates new mandate that overburdens state and local governments, and harms consumer and California's economy by increasing prices for electronic products. The opponents assert that the phase out of materials should be based on sound science, feasibility and safety and that material bans are not based on sound risk assessment or evaluation of alternatives and conflict with

provisions of SB 20's European "made!". They assert that the Rates and dates are unrealistic and unworkable.

Finally, the opponents state

"[T]he industry supports the state's effort to reduce the number of electronics disposed of in landfills and solid waste management facilities, but we encourage California to pursue non-legislative options to achieve that goal. Such market-based options include, but are not limited to, tax incentives, financial grants, and other cooperative initiatives between industry and states. CIWMB has proven

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to not just California but to the entire nation that strategic public private partnerships can work. California should build on this approach instead of changing the rules on the towns. SB 20's scheme would expect the local governments to stop working with CIWMB and start learning how to deal with global manufacturers on individual company programs. SB 20 fails to recognize the core competence and efficiencies of the various stakeholders involved. The bill places the burdens entirely on the high-tech industry, rather than spreading costs across all parties who benefit from the product.

The failure of SB 20 to create a sustainable, effective and efficient system will have the consequence of increasing the cost of electronics and/or limiting the products available in the state. This unrealistic expectation is unacceptable and forces the industry to adamantly oppose this legislation."

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3) Electronic Waste or 'E-Waste' and CRT's Defined According

to information from the C1WMB and DTSCw@ebsite@. "E-waste is a popular, informal name for electronic products nearing the end of their useful life., Computers, televisions, VCRs, stereos, copiers, and fax machines are common electronic products. Many of these products can be reused, refurbished, or recycled. Unfortunately, electronic discards is one of the fastest growing segments of our nation's waste stream. In addition, some researchers estimate that nearly 75 percent of old electronics are in storage, in part because of the uncertainty over how to manage the materials. Combine this with increasing advances in technology and new products headed towards the market and it is no wonder that "E-waste" is a popular topic."

The term "E-waste" is loosely applied to consumer and business-electronic equipment that is near or at the end of its useful life. There is no clear definition for E-waste; for instance, whether or not items like microwave ovens and other similar "appliances" should be grouped into the category have not yet been determined. Certain components of some electronic products contain materials that render them hazardous, depending on their condition and density. For instance, California regulation currently views

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nonfunctioning CRTs (cathode ray tubes) from televisions and monitors as hazardous."

CRTs, often called "picture tubes," convert an electronic signal into a visual image. A typical CRT contains between two and five pounds of lead. Lead is a toxic substance which may cause lead poisoning and can be especially harmful to young children. If products containing lead are disposed of to the trash, the lead can potentially contaminate the soil and our water supplies. when tested, most CRT's exceed the regulatory threshold for lead and are identified as hazardous waste when discarded. Waste CRTs are subject to hazardous waste regulations which went into effect August 3, 2001. The regulations protect the environment by promoting the safe collection and recycling of waste CRT's. Disposing of CRTs to the trash or to a municipal landfill is prohibited.'

4) Repor Suggests E-Waste Is International Environmental Concern . Tt is estimated that, in California alone, up to 6 million CRT's have piled up in attics, basements, garages, and other storage areas. Given the planned obsolescence of comouters, TV monitors and the like, this

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number is expected to increase over time-

According to a report issued last year by the silicon valley Toxics Coalition Exporting Harm⁷ The High-Tech Trashing Of Asia Puckett et. al.1, "Electronic waste or E-@aste is the most rapidly growing waste problem in the world. It is a crisis not only of quantity but also a crisis born from toxic ingredients such as the lead, beryllium, mercury, cadmium, and brominated-flame retardants that pose both an occupational and environmental health threat. But to date, industry, government and consumers have only taken small steps to deal with this looming problem."

?trade in E-waste is an export of real harm to the poor communities of Asia. The open burning, acid baths and toxic dumping pour pollution into the land, air and water and exposes the men, women and children of Asia's poorer peoples to poison. The health and economic costs of this trade are vast and, due to export, are not born by the western consumers nor the waste brokers who benefit from

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the trade."

The report makes the following summary findings:

Millions of pounds of E-waste from obsolete computers and TVs are being gene-rated in the U.S. each year and large

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In August of 2001, DTSC adopted emergency regulations designating CRT's as "universal wastes" subject to its universal waste regulations (CCR Title 22 Section 66273 et. seg.). These regulations prohibit the disposal of CRT's in solid waste landfills and established procedures for the handling, processing, recycling, and disposal of CRT's.

During the same timeframe, the CIWMB undertook a series of non-regulatory actions to address the problem of E-waste. The Board is supporting local E-waste collection activities through its annual household hazardous waste grant awards to local governments. it has also allocated \$110,000 for a study of E-waste generation and infrastructure in California, and for development of state agency guidelines for procurement and end-of-life management of electronic equipment. Finally, the board has conducted a series of workshops and has provided guidance to LFA's on the proper management and disposal of E-waste.

2) National "Dialogue" On E-Waste Described The National Electronics Products Stewardship Initiative (NEPSI) is a non-governmental, non-regulatory voluntary organization established in April '4001 to create a "dialogue" among industry, environmental, recycling, and other stakeholders on the issue of electronic products management. According to its press materials, NEPSI consists of 45 participants, split evenly among industry, government, and includes environmental groups, recyclers, and retailers.

According to MEPSI's website, "The infrastructure for collecting, reusing and recycling electronics in the United States has not kept pace with this growing waste stream,

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and the number of electronic products entering the waste stream is projected to increase dramatically unless reuse and recycling options expand.

NEPSI's principal goal for the dialogue is 'the development of

a system, which includes a viable financing mechanism, to maximize the collection, reuse, and recycling of used electronics, while considering appropriate incentives to design products that facilitate source reduction, reuse and recycling; reduce toxicity; and increase recycled content.'

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3) Senate Select Committee on Urban Landfills Conducted Hearing On Electronic Waste . in January of last year, the Senate Select Committee held a hearing on the subject of E-waste and CRT's in which it took testimony from environmental groups, high-tech industry representatives, waste haulers and numerous other groups on the problem of E-waste. The chair of that Committee, Senator Romero is joint author of this measure.

4) Prior Legislation Vetoed . Last year, the Legislature passed SB 1523 (Sher and Romero) that sought to enact into law a CRT recovery program and impose a ten dollar per unit advance recycling fee. That measure was vetoed by the Governor whose message is reprinted herein:

"I am returning Senate Bill 1523 without my signature. However, I am willing to sign legislation that challenges industry to assume greater responsibility for the recycling and disposal of electronic waste.

I am very troubled by an increasing electronic waste pollution problem in California, as well as across our nation. Local governments report increasing costs to handle, transport and recycle discarded electronic equipment. The amassing stockpile of obsolete and broken computer monitors and televisions grows daily. I am equally disturbed that this dangerous cargo is being sent to underdeveloped nations exposing children to hazardous waste materials.

I applaud the author's effort to address these problems. However, I am concerned that this program is not the most efficient or cost effective approach for California. This bill requires the state to hire 64 new people, at a time when the Legislature has directed the Administration to cut 7,000 positions. Moreover, I believe that building a state

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We should compel industry to solve this problem.

California has always been a global leader in the electronics industry. I challenge the industry to lead the way and

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devise an innovative solution for the source reduction, recycling, and safe disposal of electronic waste. Industry already has initiated several successful incentive programs that create a partnership between the consumer and the manufacturer. I believe this would be a better model for California and wo environmentally sustainable electronic and technology industry and provides incentives to design products that are less toxic and more recyclable.

Moreover, we simply must demonstrate our leadership and compassion by making sure that California's electronic waste is not irresponsibly sent to underdeveloped nations. The European Union is working on a program to assure that manufacturers maintain responsibility for the safe recycling of the products they produce. I am encouraged by the product stewardship approach and believe this model, tailored to fit California's recycling and disposal infrastructure is worth pursuing.

California needs a comprehensive and innovative state law that partners with product manufacturers, establishes recycling targets, and provides for the safe recycling and disposal of electronic waste. Setting environmental standards and providing manufacturers flexibility to meet them is the

cornerstone of California's air quality laws and has generated a new generation of car emission reduction technologies and improved air quality for the public.

I am convinced we can do the same for electronic waste. I strongly urge industry and other interested parties to rapidly devise a solution, in keeping with the goals I've articulated in this message. There is no time to waste. I believe California should have a new law next year.

I am asking my Secretary of the California Environmental Protection Agency to take a leadership role in working with the Legislature, government, industry, and stakeholders to create a successful California electronic waste program. I am directing the Department of General Services to take steps to assure that the state purchases electronic products that minimize environmental impacts and that state electronic equipment is recycled using best available

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practices."

9) Technical Amendments Needed This measure needs several technical amendments. First, the extensive set of findings in the bill should be shortened and consolidated. Second, the definition of "consumer" in the bill may need to be refined to ensure that it does not inadvertently pick up manufacturer to manufacturer transactions or other specialized transactions. Third, the local agency preemption clause may need clarification to ensure that it references the proper fee established by the bill. And last, the bill needs a severability clause.

SOURCE Senator Sher

SUPPORT Alameda County Board of Supervisors, Allied

Waste, Inc., As You Sow, Californians Against Waste, California State Association of Counties, Environmental Entrepreneurs (E2), City and County of San Francisco, City of Cupertino, City of Sunnyvale, League of California Cities, HKR: Los Angeles and San Francisco, Humboldt Waste Management Authority Board of Directors, Marin County Hazardous and Solid Waste Management Joint Powers Authority, Natural Resources Defense Council, Norcal Waste Systems, Inc., Planning and Conservation League, Sierra Club, SoCal Computer Recyclers, Inc., Sonoma County Waste Management Agency, Urban Corps of San Diego, Waste Management

OPPOSITION American Electronics Association, California Manufacturers & Technology Association, Electronic Industries Alliance

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