



San Bernardino County

Legislation Text

File #: 4534, Agenda Item #: 61

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

July 13, 2021

FROM

BRENDON BIGGS, Director, Department of Public Works - Solid Waste Management

SUBJECT

Public Hearing for the Collection of Delinquent Solid Waste Handling Fees

RECOMMENDATION(S)

1. Conduct a public hearing regarding placement of franchise hauler identified delinquent solid waste handling service fees on the property tax assessment roll.
2. Adopt the report of delinquent fees on file with the Clerk of the Board.
3. Authorize the Director of the Department of Public Works to amend the report of delinquent fees to remove those accounts that are paid in full, or adjust the amounts owed due to the revision of the penalties and the fees and/or partial payment of the delinquent charges, prior to the report being submitted to the Auditor-Controller/Treasurer/Tax Collector for placement on the 2021 property tax roll and to the Assessor-Recorder-County Clerk for the recording of liens against the parcels.

(Presenter: Brendon Biggs, Director, 387-7906)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost) as the Department of Public Works - Solid Waste Management Division (SWMD) is financed by fee revenue. SWMD established fees that are charged to the public and other agencies for utilization of the County Waste Disposal System. The franchise haulers have reported an estimated 5,328 delinquent accounts, totaling \$1,641,401.69 in unpaid service charges and related lien processing fees, for proposed placement on the 2021 property tax roll for the 2021-22 Budget Year. As authorized by San Bernardino County Code Title 4, Division 6, Chapter 5, Section 46.0506 (County Code) and Health and Safety Code section 5473 SWMD charges a penalty fee of 10% of the unpaid service charges, which is included in the delinquent accounts total, for performing this task on behalf of the franchise haulers.

BACKGROUND INFORMATION

On April 6, 2004 (Item No. 21), the Board of Supervisors (Board) approved Uniform Handling Services in the valley and a portion of the mountain unincorporated area of the County requiring all improved residential properties to subscribe to and pay for mandatory trash collection service. Uniform Handling property owners have the option of obtaining an approved exemption from trash and recycling collection service by obtaining a Uniform Handling Exemption after meeting the specific criteria of the program. Burrtec Waste Industries, Inc.,

the franchise waste hauler, also offers a fee waiver program for residents whose homes are vacant or have infrequent use.

In areas subject to Uniform Handling, the County Code and Franchise Agreements prohibit the hauler from discontinuing service for non-payment of monthly service fees. The County Code requires that accounts shall be considered delinquent if unpaid for 90 days after the invoice is mailed. In order to compensate the franchise hauler for services provided, the County Code states that the delinquent fees, and the related penalties and interest and costs of collection, shall be considered a debt owed to the County that, pursuant to Health and Safety Code sections 5473 through 5473a, the County has elected to have delinquent fees, and the related penalties and interest and costs of collection collected through the County's property tax roll at the same time as general taxes. The number of liens and the amount collected for the nine previous years is demonstrated in the following table:

| Budget Year | Liens Authorized | | Liens Placed | | Collected |
|-------------|------------------|-------------|--------------|-------------|-------------|
| | Number | Amount | Number | Amount | Amount* |
| 2020-21 | 5,973 | \$1,824,762 | 3,190 | \$1,109,828 | \$1,070,906 |
| 2019-20 | 5,721 | \$1,705,348 | 3,591 | \$1,196,598 | \$1,211,774 |
| 2018-19 | 5,093 | \$1,449,351 | 3,419 | \$1,078,485 | \$1,122,245 |
| 2017-18 | 4,870 | \$1,393,490 | 3,058 | \$998,920 | \$1,065,125 |
| 2016-17 | 4,581 | \$1,380,976 | 2,882 | \$981,503 | \$1,044,243 |
| 2015-16 | 5,329 | \$1,445,267 | 3,443 | \$1,070,236 | \$1,133,673 |
| 2014-15 | 5,160 | \$1,370,396 | 3,457 | \$1,029,989 | \$1,099,471 |
| 2013-14 | 5,490 | \$1,417,829 | 3,600 | \$1,034,817 | \$1,118,254 |
| 2012-13 | 5,706 | \$1,435,902 | 4,017 | \$1,087,916 | \$1,137,612 |

**Includes delinquent charges, administrative costs, and interest and penalties.*

The final number of liens to be placed on the tax roll each year are typically less than the number authorized by the Board because customers are afforded the opportunity to pay, in full or in part, their delinquent charges prior to the recordation of a lien against the parcel. Customers that have an outstanding balance are notified by Burrtec or its subsidiaries through the regular billing process. In addition, prior to the Public Hearing, on June 28, 2021 the haulers mailed a letter to the customers notifying them of their delinquent trash and recycling service charges and of the possibility that a lien may be placed on their property if payment is not received. Information was included on the notice about the San Bernardino County Rent Relief Partnership program that might be able to assist customers who have been impacted by COVID-19 and have been unable to pay their trash bill. The letter provides customers with the date, time, and location of this public hearing and a final date to receive payment in order to avoid additional fees and having a lien recorded against their property.

For the 2021 tax roll, there are an estimated 5,328 delinquent accounts for service charges and related lien processing fees totaling \$1,641,401.69 in the following County Franchise Areas:

| County Franchise Area | Number of Liens | Delinquent Amount including fees | Location | Franchise Hauler |
|-----------------------|-----------------|----------------------------------|--------------------------------|--------------------------|
| CFA 1 | 92 | \$30,102.35 | San Antonio Heights, Mt. Baldy | Burrtec Waste Industries |

| | | | | |
|--------------|--------------|-----------------------|--|---------------------------|
| CFA 2 | 210 | \$65,413.52 | Unincorporated Montclair, Upland | Burrtec Waste Industries |
| CFA 5 | 737 | \$238,537.09 | Unincorporated West Fontana | Burrtec Waste Industries |
| CFA 6 | 777 | \$260,766.76 | Bloomington | Burrtec Waste Industries |
| CFA 8 | 466 | \$180,409.62 | Muscoy, Unincorporated San Bernardino | Burrtec Waste Industries |
| CFA 9 | 73 | \$25,693.40 | Unincorporated North Rialto | Burrtec Waste Industries |
| CFA 10 | 485 | \$169,440.21 | Del Rosa, Devore | Jack's Disposal |
| CFA 11 | 22 | \$6,546.32 | Unincorporated Loma Linda | Burrtec Waste Industries |
| CFA 12 | 153 | \$60,318.12 | Mentone, Oak Glen, Angelus Oaks, Mountain Home | Empire Disposal |
| CFA 16 | 2,313 | \$604,174.30 | Lake Arrowhead, Crestline, Running Springs | Mountain Disposal Company |
| Total | 5,328 | \$1,641,401.69 | | |

Section 5473 et seq. of the California Health and Safety Code sets forth the procedures for collecting such delinquent fees through the tax roll. The statute requires the scheduling of a public hearing to accept the list of delinquent charges as a debt owed to the County and that all affected property owners be notified of the hearing at least 14 days prior to the scheduled date of the hearing. This was accomplished by the Clerk of the Board through publishing the notice in local newspapers. In addition, the franchise haulers were directed to mail a written notice of the time, date, and location of said hearing to all affected property owners within their respective franchise areas.

Upon submittal to the Auditor-Controller/Treasurer/Tax Collector on or before August 10th of each year, the delinquent accounts will be placed on the tax rolls for collection and liens will be recorded against the applicable parcels. The recorded liens will provide notice to subsequent purchasers and mortgagees of the outstanding delinquencies. Collecting delinquent hauler service charges through the tax rolls is a standard practice for local jurisdictions such as the cities of Fontana, Yucaipa, Rialto, Highland and many others that provide their communities with similar Uniform Handling services. The County first placed delinquent hauler liens on the 2005 tax roll for Budget Year 2005-06 and continued in each subsequent year.

The placement and collection of delinquent hauler fees on the property tax assessment role supports the goals and objectives of operating in a fiscally-responsible and business-like manner by taking all necessary steps to ensure that property owners who are required to pay for solid waste collection services do so.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Jolena Grider, Deputy County Counsel, 387-5455) on June 10, 2021; Finance (Jessica Trillo, Administrative Analyst, 387-4222) on June 22, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on June 28, 2021.