



Community Health Commission

CONSENT CALENDAR

June 10, 2014

To: Honorable Mayor and Members of the City Council  
 From: Community Health Commission  
 Submitted by: Linda Franklin, Chairperson, Community Health Commission  
 Subject: Support SB 1381: Genetically Modified Organisms Labeling

RECOMMENDATION

Adopt a Resolution and send a letter to the California Legislature asking them to support SB 1381, as currently written, requiring genetically modified organisms to be labeled in the State of California. The letter should mention the environmental impacts associated with genetically modified organisms.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

In 2012, Californians narrowly rejected Proposition 37, which would have required the labeling of genetically modified organisms (GMO). Currently, California law preempts a city's or county's ability to pass laws regarding food labeling. According to CA Health and Safety Code section 113705, "...it is the intent of the Legislature to occupy the whole field of health and sanitation standards for retail food facilities..." and CA Health and Safety Code section 114089 provides specific labeling requirements for prepackaged food.

On February 21, 2014, SB 1381 was introduced in the State Senate, opening the possibility of the State of California to require genetically modified organisms to be labeled. SB 1381 provides protections to farmers and retailers and limits potential litigation, addressing concerns over Proposition 37's possibility of expanding litigation, and targeting farmers and small business retailers. Under SB 1381, food manufacturers would be required to disclose whether foods sold in California contained, or are, genetically engineered. SB 1381 amends the existing law: Sherman Food, Drug, and Cosmetic Law, amended and effective January 1, 2014 (AB 1277) which makes it unlawful to manufacture, sell, deliver or hold any food that is misbranded. Under SB 1381, any food would be considered misbranded if it is entirely or partially genetically engineered and is not disclosed in the specified manner. SB 1381 requires foods containing genetically engineered (GE) ingredients to list those ingredients on the label. SB 1381 provides that all packaged food that is entirely or partially produced with GE be identified and labeled. In the case of GE raw food commodities that are not separately packaged, requires the retailer to place conspicuous labeling on the retail store shelf or bin in which the food is displayed for sale.

The long-term effects of GE/GMOs on the environment are not certain. Pests that are targeted by GMO agricultural methods can adapt to different pesticides and herbicides. This means that the current GMO plants will not always be effective, but their toxic legacies will remain. Genetic Engineering will always be adapting and changing DNA in response to this environmental cycle. Biodiversity, while it is critical in all ecosystems and to the sustainability of all species, is put at risk by GMOs.

The City of Berkeley does not have the resources to regulate the labeling of genetically modified organisms. Moreover, imposing genetically modified labeling burdens retailers, especially small business. Many have no way of knowing whether the products they have on their shelves contain genetically modified organisms. SB 1381 mandates labeling by manufacturer and agricultural producers. However, according to the City of Berkeley's Municipal Code Chapter 12.29, the Precautionary Principle and the Right to Know, the community has a right to know complete and accurate information on potential health and environmental impacts associated with the selection of products, services, operations, or plans. If an action or policy has a suspected risk of causing harm to the public or to the environment in the absence of scientific consensus, the burden of proof that it is not harmful falls on those taking an action. In accordance with the Precautionary Principle, it is important for the City of Berkeley to express its support of SB 1381 by sending a letter to the California Legislature urging passage of the measure.

On April 10, 2014, the Community Health Commission approved a motion to recommend adoption of a resolution to support SB 1381 regarding GMO labeling by the following vote:

M/S/C Neuhauser, Rosales

Ayes: Gibson, Kwanele, McClure, Mecklai, Rosales, Speich, Tempelis, A. Wong, M. Wong

Noes: Neuhauser

Abstain: Barry, Collins, Lee, Shaw, Stein

Excused: Franklin, Namkung

### BACKGROUND

In September 2013, the City Council referred to the Community Health Commission the issue of GMO labeling of retail fresh produce products. Among other issues, the City Council requested consideration on appropriate labeling of produce that is GMO. In response to that referral, the Community Health Commission researched and discussed the language of the recently failed Proposition 37 for background. In February 2014, when SB 1381 was introduced in the State Senate, the Community Health Commission reviewed the proposed State Legislation and is recommending to the City Council that the City of Berkeley support this legislation as a first step in addressing the concerns of GMO labeling.

### ENVIRONMENTAL SUSTAINABILITY

The recommendation to support SB1381 which requires GMO labeling is supportive of the City of Berkeley's environmental sustainability goals by providing information to City residents regarding the food they consume.

### RATIONALE FOR RECOMMENDATION

The recommendation to support proposed State Legislation on GMO labeling will be more efficient and effective with a more consistent outcome, than use of staff and City resources for enforcement,

### ALTERNATIVE ACTIONS CONSIDERED

The Commission chose its recommendation as being the most efficient and effective, but recognizes that alternative or additional actions may be considered by the City Council. Toward that end, we discussed the following:

1. Berkeley becoming a GMO free zone would be a feasible way to deal with GMOs, since local land use is not preempted by state law. However, it is unknown whether there is any local land in Berkeley that uses GMOs, so it is difficult to predict the success or relevance of declaring Berkeley a GMO free zone.
2. Requiring food retailers to post a sign on the front of the property that the food they sell may contain GMOs. However, by doing this, it would seem as if we are targeting food retailers, and making them take responsibility, rather than food manufacturers. Food retailers have neither specific information nor independent confirmation regarding whether their food contains GMOs, and they would be penalized unfairly if, unbeknownst to them, their food does in fact contain GMOs.
3. The City of Berkeley Council would have the Department of Health Services develop workshops, create pamphlets and other types of educational tools to inform the community of GMO use in processed food products and fresh produce.

### CITY MANAGER

The City Council previously adopted a resolution to support SB 1381 at the Council meeting of May 6, 2014. The City Manager takes no position on the content and recommendations of the Commission's Report.

### CONTACT PERSON

Gail Feldman, Commission Secretary, HHCS, (510) 981-5232

### Attachments:

- 1: Resolution to Support SB 1381

RESOLUTION NO. ##,###-N.S.

SUPPORT SB 1381 REQUIRING GENETICALLY MODIFIED ORGANISMS TO BE  
LABELED IN THE STATE OF CALIFORNIA

WHEREAS, the Council of the City of Berkeley has requested the Community Health Commission and the Community Environmental Advisory Commission to make recommendations regarding labeling of Genetically Modified Organism (GMO) food products; and

WHEREAS, the Commissions have determined that current research and studies have not determined what the long term health and safety risks of using GMO products are to human health or the environment; and

WHEREAS, the Commissions have determined the community has the right to know about the food products purchased, according to City of Berkeley Municipal Code Chapter 12.29 Precautionary Principle Right to Know, which states that the community has a right to know complete and accurate information on potential health and environmental impacts associated with the selection of products, services, operations, or plans; and

WHEREAS, the Commissions have determined that further investigation is needed to establish how the precautionary principle would be used to require food products, within the City of Berkeley limits, to have GMO labels; and

WHEREAS, the Commissions have determined that the City Council should endorse SB 1381 - a state senate bill that requires genetically modified food products to be labeled.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council supports the passage of SB 1381 - a state senate bill that requires genetically modified food products to be labeled.