



**DATE:** September 28, 2016

**TO:** Waste Management Authority Board

**FROM:** Wendy Sommer, Executive Director

**BY:** Debra Kaufman, Senior Program Manager  
Meri Soll, Senior Program Manager

**SUBJECT:** Support Position for Proposition 67, the Plastic Bag Ban Referendum

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**SUMMARY**

Typically the Agency does not take positions on ballot measures. Proposition 67, the Plastic Bag Ban Referendum, however, is so closely aligned with an Agency project and goal, that staff is recommending that the Board adopt a support position.

**DISCUSSION**

In 2014, the Governor signed a statewide bag law, Senate Bill (SB) 270, which prohibits stores that sell packaged food and liquor (the same set of stores that the Authority’s ordinance currently covers) from providing single use plastic carry-out bags. It requires these stores to charge customers 10 cents for any carry out bag it provides at checkout. The state law closely models our own ordinance. The law does not preempt any of the Agency’s adopted ordinance provisions (as our ordinance was adopted in 2012, prior to the state law) and would allow for expansion to additional stores, as is currently being considered.

A referendum to overturn SB 270 has qualified for the ballot and the fate of the law will be determined by the results at the upcoming general election. Proposition 67 is the referendum on SB 270. A “yes” vote on Prop 67 upholds SB 270 and implements the statewide bag ban. SB 270 will only apply to cities and counties that do not already have their own single use carryout bag law as of September, 2014.

The importance of keeping plastic bags out of our streets, waterways and landfills has been recognized by many local governments and as of June 2016, there were single-use carryout bag laws in approximately 150 cities and counties, covering about 40 percent of California’s population. This law will help to reduce the estimated 15 billion single-use plastic carryout bags provided to customers in California and save our state and local communities tens of millions of dollars in litter clean-up costs.

The referendum has received a position of support from Berkeley, Pasadena, Santa Cruz, Contra Costa and Marin Counties and the League of California Cities, as well as a many other organizations dedicated to improving water quality and reducing waste. Attachment A provides the text of the Ballot Measure.

Another related measure, Proposition 65, will also be on the ballot, and we are not recommending a position on this measure. Proposition 65 would dedicate the bag fees collected under Proposition 67 to a new state fund instead of to the retailers to help offset their bag costs. Proposition 65 is sponsored by plastics manufacturers and is suspected of causing consumer confusion around this issue.

### **RECOMMENDATION**

Staff recommends that the Authority Board adopt a position of “support” on Proposition 67 to uphold Senate Bill 270, the Plastic Bag Ban.

Attachment A: Ballot Measure Description

PROPOSITION **BAN ON SINGLE-USE PLASTIC BAGS.**  
**67** REFERENDUM.

**OFFICIAL TITLE AND SUMMARY**

PREPARED BY THE ATTORNEY GENERAL

A “Yes” vote approves, and a “No” vote rejects, a statute that:

- Prohibits grocery and certain other retail stores from providing single-use plastic or paper carryout bags to customers at point of sale.
- Permits sale of recycled paper bags and reusable bags to customers, at a minimum price of 10 cents per bag.

**SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:**

- Relatively small fiscal effects on state and local governments. Minor increase of less than a million dollars annually for state administrative costs, offset by fees. Possible minor savings to local governments from reduced litter and waste management costs.

**ANALYSIS BY THE LEGISLATIVE ANALYST**

**BACKGROUND**

**Carryout Bag Usage.** Stores typically provide their customers with bags to carry out the items they buy. One type of bag commonly provided is the “single-use plastic carryout bag,” which refers to a thin plastic bag used at checkout that is not intended for continued reuse. In contrast, “reusable plastic bags” are thicker and sturdier so that they can be reused many times. Many stores also provide single-use paper bags. Stores frequently provide single-use paper and plastic carryout bags to customers for free, and some stores offer reusable bags for sale. Each year, roughly 15 billion single-use plastic carryout bags are provided to customers in California (an average of about 400 bags per Californian).

**Many Local Governments Restrict Single-Use Carryout Bags.** Many cities and counties in California have adopted local laws in recent years restricting or banning single-use carryout bags. These local laws have been implemented due to concerns about how the use of such bags can impact the environment. For example, plastic bags contribute to litter and can end up in waterways. In addition, plastic bags can be difficult to recycle because they can get tangled in recycling machines. Most of these local laws ban single-use plastic carryout bags at grocery stores, convenience stores, pharmacies, and liquor stores. They also usually require the store to charge at least 10 cents for the sale of any carryout bag. Stores are allowed to keep the resulting revenue. As of June 2016, there were local carryout bag laws in about 150 cities and counties—covering about 40 percent of California’s population—mostly in areas within coastal counties.

**Passage of Statewide Carryout Bag Law.** In 2014, the Legislature passed and the Governor signed a statewide carryout bag law, Senate Bill (SB) 270. As described in more detail below, the law prohibits certain stores from providing single-use plastic carryout bags. It also requires these stores to charge

customers for any other carryout bag provided at checkout.

**PROPOSAL**

Under the State Constitution, a new state law can be placed before voters as a referendum to determine whether the law can go into effect. This proposition is a referendum on SB 270. Below, we describe what a “yes” and “no” vote would mean for this measure, its major provisions, and how this measure could be affected by another proposition on this ballot.

**What a “Yes” and “No” Vote Mean**

**“Yes” Vote Upholds SB 270.** Certain stores would be prohibited from providing single-use plastic carryout bags and generally required to charge at least 10 cents for other carryout bags. These requirements would apply only to cities and counties that did not already have their own single-use carryout bag laws as of the fall of 2014.

**“No” Vote Rejects SB 270.** A store could continue to provide single-use plastic carryout bags and other bags free of charge unless it is covered by a local law that restricts the use of such bags.

**Main Provisions of Measure**

**Prohibits Single-Use Plastic Carryout Bags.** This measure prohibits most grocery stores, convenience stores, large pharmacies, and liquor stores in the state from providing single-use plastic carryout bags. This provision does not apply to plastic bags used for certain purposes—such as bags for unwrapped produce.

**Creates New Standards for Reusable Plastic Carryout Bags.** This measure also creates new standards for the material content and durability of reusable plastic carryout bags. The California Department of Resources Recovery and Recycling (CalRecycle) would be responsible for ensuring that bag manufacturers

**ANALYSIS BY THE LEGISLATIVE ANALYST**

CONTINUED

meet these requirements. The measure also defines standards for other types of carryout bags.

**Requires Charge for Other Carryout Bags.** This measure generally requires a store to charge at least 10 cents for any carryout bag that it provides to consumers at checkout. This charge would not apply to bags used for certain purposes—such as bags used for prescription medicines. In addition, certain low-income customers would not have to pay this charge. Under the measure, stores would retain the revenue from the sale of the bags. They could use the proceeds to cover the costs of providing carryout bags, complying with the measure, and educational efforts to encourage the use of reusable bags.

**Another Proposition on This Ballot Could Affect Implementation of This Measure**

This ballot includes another measure—Proposition 65—that could direct revenue from carryout bag sales to the state if approved by voters. Specifically, Proposition 65 requires that revenue collected from a state law to ban certain bags and charge fees for other bags (like SB 270 does) would have to be sent to a new state fund to support various environmental programs.

If both measures pass, the use of the revenues from carryout bag sales would depend on which measure receives more votes. Figure 1 shows how the major provisions of SB 270 would be implemented differently depending on different voter decisions on the two measures. Specifically, if Proposition 67 (this referendum on SB 270) gets more “yes” votes, the revenue would be kept by stores for specified purposes. However, if Proposition 65 (initiative) gets more “yes” votes, the revenue would be used for environmental programs. We note that Proposition 65 includes a provision that could be interpreted by the courts as preventing SB 270 from going into effect at all should

both measures pass and Proposition 65 gets more “yes” votes. However, this analysis assumes that the other provisions of SB 270 not related to the use of revenues—such as the requirement to ban single-use plastic carryout bags and charge for other bags—would still be implemented.

**FISCAL EFFECTS**

**Minor State and Local Fiscal Effects.** This measure would have relatively small fiscal effects on state and local governments. Specifically, the measure would result in a minor increase of less than a million dollars annually in state costs for CalRecycle to ensure that bag manufacturers meet the new reusable plastic bags requirements. These costs would be offset by fees charged to makers of these bags. The measure could also result in other fiscal effects—such as minor savings to local governments from reduced litter cleanup and waste management costs.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee's top 10 contributors.

**Figure 1  
Implementation of Referendum Would Be Affected by Outcome of Proposition 65**

	Proposition 67 (SB 270 Referendum) Passes	Proposition 67 (SB 270 Referendum) Fails
Proposition 65 (Initiative) Passes	Statewide carryout bag law in effect. Use of revenues from sale of carryout bags depends on which proposition gets more votes: <ul style="list-style-type: none"> <li>• If more “yes” votes for referendum, revenue is kept by stores.</li> <li>• If more “yes” votes for initiative, revenue goes to state for environmental programs.<sup>a</sup></li> </ul>	No statewide carryout bag law. Revenue from any future statewide law similar to SB 270 would be used for environmental programs.
Proposition 65 (Initiative) Fails	Statewide carryout bag law in effect and revenue from the sale of carryout bags is kept by stores.	No statewide carryout bag law.

<sup>a</sup> Alternatively, a provision of Proposition 65 could be interpreted by the courts as preventing Senate Bill (SB) 270 from going into effect at all.

★ ARGUMENT IN FAVOR OF PROPOSITION 67 ★

67

YES on 67 to REDUCE LITTER, PROTECT OUR OCEAN and WILDLIFE, and REDUCE CLEAN-UP COSTS.

Single-use plastic shopping bags create some of the most visible litter that blows into our parks, trees and neighborhoods, and washes into our rivers, lakes and ocean. A YES vote will help keep discarded plastic bags out of our mountains, valleys, beaches and communities, and keep them beautiful. The law also will save our state and local communities tens of millions of dollars in litter clean-up costs.

PLASTIC BAGS ARE A DEADLY THREAT TO WILDLIFE.

*“Plastic bags harm wildlife every day. Sea turtles, sea otters, seals, fish and birds are tangled by plastic bags; some mistake bags for food, fill their stomachs with plastics and die of starvation. YES on 67 is a common-sense solution to reduce plastic in our ocean, lakes and streams, and protect wildlife.”—Julie Packard, Executive Director, Monterey Bay Aquarium*

YES on 67 CONTINUES CALIFORNIA'S SUCCESS IN PHASING OUT PLASTIC BAGS.

A YES vote will keep in place a law passed by the Legislature and signed by the Governor that will stop the distribution of wasteful single-use plastic shopping bags. This law has strong support from organizations that are committed to protecting the ocean, wildlife, consumers, and small businesses.

It will be fully implemented statewide once voters approve Prop. 67.

Many local communities are already phasing out plastic bags. In fact, nearly 150 local cities and counties have banned single-use plastic bags. These laws have already been a success; some communities have seen a nearly 90 percent reduction in single-use bags, as well as strong support from consumers.

OUT-OF-STATE PLASTIC BAG COMPANIES ARE OPPOSING CALIFORNIA'S PROGRESS.

Opposition to this law is funded by four large out-of-state plastic bag companies. They don't want California to take leadership on plastic bag waste, and are trying to defeat this measure to protect their profits.

Don't believe their false claims. We should give California's plastic bag law a chance to work, especially with so much success already at the local level.

YES on 67 to PROTECT CALIFORNIA'S PLASTIC BAG LITTER REDUCTION LAW.

**JULIE PACKARD**, Executive Director  
Monterey Bay Aquarium

**JOHN LAIRD**, Chairperson  
California Ocean Protection Council

**SCOTT SMITHLINE**, Director  
California Department of Resources Recycling and Recovery

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 67 ★

WE ALL WANT TO PROTECT THE ENVIRONMENT, BUT PROP. 67 IS A FRAUD.

It is a \$300 million per year HIDDEN BAG TAX on California consumers who will be forced to pay a minimum 10 cents for every paper and thick plastic grocery bag they are given at checkout.

AND NOT ONE PENNY WILL GO TO THE ENVIRONMENT.

Instead, the Legislature gave all \$300 million in new bag tax revenue to grocers as extra profit.

THAT'S \$300 MILLION EVERY YEAR!

STOP THE SPECIAL INTEREST SWEETHEART DEAL.

In a sweetheart deal brokered by special interest lobbyists, Proposition 67 will grow profits for grocery stores by up to \$300 million a year.

Big grocery store chains get to keep ALL of the new tax revenue.

Grocers will grow \$300 million richer every year on the backs of consumers.

DON'T BE FOOLED: NOT ONE PENNY OF THE BAG BAN TAX GOES TO THE ENVIRONMENT.

The Legislature could have dedicated the new tax revenue to protect the environment, but their goal wasn't to protect the environment . . . IT WAS ABOUT GROWING PROFITS FOR GROCERY STORES AND LABOR UNIONS.

The measure SPECIFICALLY REQUIRES GROCERS TO KEEP ALL OF THE NEW TAX AS PROFIT!

STOP THE SWEETHEART DEAL AND HIDDEN BAG TAX.

VOTE NO ON PROP. 67.

**DOROTHY ROTHROCK**, President  
California Manufacturers & Technology Association

**THOMAS HUDSON**, Executive Director  
California Taxpayer Protection Committee

**DEBORAH HOWARD**, Executive Director  
California Senior Advocates League

★ ARGUMENT AGAINST PROPOSITION 67 ★

**DON'T BE FOOLED BY PROP. 67.**

It is a \$300 million per year **HIDDEN TAX INCREASE** on California consumers who will be forced to pay a minimum 10 cents for every paper and thick plastic grocery bag they are given at the checkout.

And not one penny goes to the environment.

Instead, the Legislature gave all \$300 million in new tax revenue to grocers as extra profit.

Stop the sweetheart special interest deal . . . **VOTE NO ON PROP. 67.**

**STOP THE BAG TAX**

Prop. 67 bans the use of plastic retail bags and **REQUIRES** grocers to charge and keep a minimum 10 cent tax on every paper or thicker plastic reusable bag provided at checkout.

Consumers will pay \$300 million more every year just to use shopping bags grocery stores used to provide for free.

**TAX REVENUE GOES TO GROCERS, SPECIAL INTERESTS**

Proposition 67 will grow profits for grocery stores by up to \$300 million a year.

Big grocery store chains get to keep all of the tax revenue.

Grocers will grow \$300 million richer on the backs of consumers.

**NOT ONE PENNY OF THE BAG TAX GOES TO HELP THE ENVIRONMENT**

The Legislature could have dedicated the new tax revenue to protect the environment, but it did not. Instead, it **REQUIRED** grocery stores to keep the new bag tax revenue.

**STOP THE SPECIAL INTEREST BAG TAX DEAL**

Prop. 67 is a deal cooked up by special interest lobbyists in Sacramento to grow profits for grocery stores.

The Legislature passed SB 270 and hidden in the fine print is a **NEW BAG TAX** on consumers—a minimum 10 cents on every paper and thick plastic reusable bag provided to shoppers—all dedicated to grocer profits.

**STOP THE SWEETHEART DEAL AND HIDDEN BAG TAX**

**VOTE NO ON PROP. 67.**

**DOROTHY ROTHROCK**, President  
California Manufacturers & Technology Association

**THOMAS HUDSON**, Executive Director  
California Taxpayer Protection Committee

**DEBORAH HOWARD**, Executive Director  
California Senior Advocates League

67

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 67 ★

A YES vote on 67 confirms that California can move forward with its ban on plastic grocery bags. It's that simple.

Don't be fooled by the deceptive campaign waged by plastic bag corporations from Texas and South Carolina, who claim they are looking out for our environment. Phasing out single-use plastic bags brings major benefits to California.

These bags kill wildlife, pollute our oceans, ruin recycling machines, and cause litter that is expensive to clean up.

Many local communities across California have already phased out plastic grocery bags, and a YES vote would continue this progress.

*"Don't buy the industry spin! . . . shoppers can avoid the 10-cent fee on paper or reusable plastic bags simply by bringing their own."*—The Los Angeles Times editorial board

*"Across California, small local grocery stores like ours support a YES vote on Prop. 67. In our local*

*community, we have a ban on single-use plastic bags that is working well. Our customers are bringing their own reusable bags, and are happy to do their part to reduce unneeded plastic litter. It's good for small businesses and consumers."*—Roberta Cruz, La Fruteria Produce

*"Californians are smarter than the plastic bag makers, especially those from out of state, seem to think."*—Sacramento Bee Editorial Board

Vote YES on 67 to protect California's success in phasing out plastic bag litter and waste.

**DOLORES HUERTA**, Co-Founder  
United Farm Workers

**SAM LICCARDO**, Mayor  
City of San Jose

**MARY LUÉVANO**, Commissioner  
California Coastal Commission