

Authority Board (WMA) & Energy Council (EC)

Dan Kalb, **WMA, President**
City of Oakland, WMA, EC

Michael Hannon, **WMA 1st Vice President**
City of Newark, WMA, EC

Dave Sadow, **WMA 2nd Vice President**
Castro Valley Sanitary District, WMA

Lorin Ellis, **EC, President**
City of Union City, WMA, EC

Dianne Martinez, **EC 1st Vice President**
City of Emeryville, WMA, EC

Jim Oddie, **EC 2nd Vice President**
City of Alameda, WMA, EC

Keith Carson, County of Alameda, WMA, EC

Peter Maass, City of Albany, WMA, EC

Susan Wengraf, City of Berkeley, WMA, EC

Don Biddle, City of Dublin, WMA, EC

Suzanne Lee Chan, City of Fremont, WMA, EC

Al Mendall, City of Hayward, WMA, EC

Lauren Turner, City of Livermore, WMA, EC

Shelia Young, Oro Loma Sanitary District, WMA

Tim Rood, City of Piedmont, WMA, EC

Jerry Pentin, City of Pleasanton, WMA, EC

Deborah Cox, City of San Leandro, WMA, EC

Wendy Sommer, Executive Director

AGENDA

**MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT
AUTHORITY (WMA) BOARD
AND
THE ENERGY COUNCIL (EC)**

**Wednesday, October 26, 2016
2:30 P.M.**

**StopWaste Offices
1537 Webster Street
Oakland, CA 94612
510-891-6500**

Meeting is wheelchair accessible. Sign language interpreter may be available upon five (5) days notice by calling 510-891-6500. Members of the public wanting to add an item to a future agenda may contact 510-891-6500.

I. CALL TO ORDER

II. ROLL CALL

III. ANNOUNCEMENTS BY THE PRESIDENTS - (Members are asked to please advise the board or the council if you might need to leave before action items are completed)

♦ Presentation by Heidi Sanborn:

California Product Stewardship Council award to Board member Keith Carson for authoring the first sharps producer responsibility law in the United States.

Page IV. CONSENT CALENDAR

1 **1. Approval of the Draft Joint Minutes of September 28, 2016 (Wendy Sommer)** **Action**

7 **2. Final Legislative Update and Recommendation to Adopt a "No" Position on Prop 65 (Debra Kaufman)** **Action**

Receive the 2016 legislative status update and adopt a "no" position on Proposition 65.

13 **3. Minutes of the October 18, 2016 Technical Advisory Group (Karen Kho)** **Information**

17 **4. Grants Under \$50,000 (Wendy Sommer)** **Information**

V. OPEN PUBLIC DISCUSSION

An opportunity is provided for any member of the public wishing to speak on any matter within the jurisdiction of the boards or council, but not listed on the agenda. Total time limit of 30 minutes with each speaker limited to three minutes.

VI. REGULAR CALENDAR

- 19 **1. Expanded Single Use Bag Reduction Ordinance Adoption (Meri Soll)** **Action**
It is recommended that the Authority Board adopt the ordinance set forth in Attachment A at its October 26, 2016 meeting.
- 2. Priority Setting: Survey Results and Guiding Principles (Wendy Sommer)** **Information**
This item is for information only.
- 3. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Wendy Sommer)** **Action**
(P&O and Recycling Board meeting, November 10, 2016 at 7:00 pm – Castro Valley Library)

VII. COMMUNICATIONS/MEMBER COMMENTS

- ♦ Board member Acknowledgement – Board member Suzanne Lee Chan

VIII. CLOSED SESSION (WMA only)

Pursuant to Government Code Section 54957
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Executive Director
(confidential materials mailed separately)

CLOSED SESSION (WMA only)

Pursuant to Government Code Section 54957.6
CONFERENCE WITH LABOR NEGOTIATOR
Agency Designated Representatives: Board Members Kalb, Hannon, Sadoff, Pentin
Unrepresented Employee: Executive Director
(confidential materials mailed separately)

IX. ADJOURNMENT

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**MINUTES OF THE JOINT MEETING
OF THE
ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY (WMA),
THE ENERGY COUNCIL (EC),
AND
THE ALAMEDA COUNTY SOURCE REDUCTION AND RECYCLING BOARD (RB)**

Wednesday, September 28, 2016

3:00 P.M.

**StopWaste Offices
1537 Webster Street
Oakland, CA 94612
510-891-6500**

I. CALL TO ORDER

Dan Kalb, President, WMA, called the meeting to order at 3:03 p.m.

II. ROLL CALL

WMA & EC:

County of Alameda	Keith Carson, WMA, EC
City of Alameda	Jim Oddie, WMA, EC, RB
City of Albany	Peter Maass, WMA, EC, RB
City of Berkeley	Susan Wengraf, WMA, EC
Castro Valley Sanitary District	Danny Akagi (Alternate), WMA
City of Dublin	Don Biddle, WMA, EC
City of Emeryville	Dianne Martinez, WMA, EC, RB
City of Fremont	Suzanne Lee Chan, WMA, EC
City of Hayward	Francisco Zermeno (Alternate), WMA, EC
City of Newark	Mike Hannon, WMA, EC
City of Oakland	Dan Kalb, WMA, EC
Oro Loma Sanitary District	Shelia Young, WMA
City of Piedmont	Tim Rood, WMA, EC, RB
City of Pleasanton	Kathy Narum (Alternate), WMA, EC
City of San Leandro	Deborah Cox, WMA, EC
City of Union City	Lorin Ellis, WMA, EC

P&O/RB:

Environmental Organization	John Moore, RB
Environmental Educator	Toni Stein, RB
Recycling Materials Processing Industry	Bernie Larrabe, RB
Recycling Programs	Adan Alonzo, RB
Solid Waste Industry Representative	Michael Peltz, RB
Source Reduction Specialist	Steve Sherman, RB

Absent:

City of Livermore	Laureen Turner, WMA, EC
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Staff Participating:

Wendy Sommer, Executive Director
Tom Padia, Deputy Executive Director

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Richard Taylor, Legal Counsel, Authority Board
Meri Soll, Senior Program Manager
Brian Mathews, Senior Program Manager
Jeff Becerra, Communications Manager
Justin Lehrer, Senior Program Manager
Angelina Vergara, Program Manager
Arliss Dunn, Clerk of the Board

Others Participating:

Paul Kumar, Save the Bay
Jessica Lynam, CA Restaurants Association
Gail Lillian, Oakland Indie Alliance

III. ANNOUNCEMENTS BY THE PRESIDENTS

President Kalb welcomed Board member John Moore to the Recycling Board. Board member Moore will serve in the capacity of Environmental Organization representative.

Board member Wengraf made a motion to postpone the Executive Director’s evaluation to the October meeting. Board member Hannon seconded the motion. Board member Wengraf added the closed session item is at the end of the agenda and it would not allow the sufficient time it deserves. President Kalb suggested for consideration that the Board convene the closed session and then continue the discussion in October if necessary. Board member Zermeno attending as the alternate for Board member Mendall (Hayward) voiced support for postponing the closed session. Board member Chan stated that some members did not receive the materials prior to the meeting but she is comfortable with proceeding with the discussion. Board member Young inquired if there would be a conflict with timing if the closed session is postponed. Ms. Sommer stated no. Ms. Sommer suggested that if the Board agrees to postpone the discussion to October to schedule an earlier meeting start time at 2:30 p.m.

The Board voted 14-3 (Narum, Rood, and Young, no) (Ellis, Oddie, and Turner, absent) to postpone the closed session item to the October 26 meeting and to start the meeting at 2:30 p.m.

IV. CONSENT CALENDAR

- 1. Approval of the Draft Minutes of July 27, 2016 (Wendy Sommer) Action**
- 2. Financial Services Manager Position (Pat Cabrera) Action**
The P&A Committee recommends that the WMA Board approve the new Financial Services Manager position, job description and new monthly salary Range of \$8,866-\$10,773. Furthermore, the P&A Committee recommends that The WMA Board eliminates the Chief Financial Officer position, job description and monthly salary range of \$9,598-\$11,661.
- 3. Minutes of the July 19, 2016, August 16, 2016, & September 20, 2016 Information**
Technical Advisory Group (Karen Kho)

Board member Biddle made the motion to approve the Consent calendar. Board member Narum seconded and the motion carried 17-0 (Ellis, Oddie and Turner absent).

V. OPEN PUBLIC DISCUSSION

There was none.

VII. REGULAR CALENDAR

- 1. Reusable Bag Ordinance Expansion – Introduction of Ordinance 2016-2 and Adoption of Addendum to Environmental Impact Report (Meri Soll) Action**

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Staff recommends that the WMA Board 1) consider the formally amended ordinance (Attachment A) by title only, waiving a full reading of the full text, 2) introduce the ordinance for consideration of adoption at the October 26 WMA meeting and 3) adopt a resolution (Attachment B) adopting the Addendum to the Final Environmental Impact Report for the Mandatory Recycling and Single Use Bag Reduction Ordinance.

Meri Soll presented an overview of the staff report and a PowerPoint presentation. The report and presentation is available here: [RBO-Presentation-9-28-16.pdf](#)

Ms. Soll announced that the MOU between the WMA and the Alameda County Clean Water Program (Program) was approved by both entities and had received a final signature from the Board of Supervisors.

President Rood pointed out that the date on the first page of the staff memo should be corrected to state "Beginning May 1, **2017**, all retail stores will be required to follow current ordinance requirements," not May 1, 2016.

Board member Biddle thanked Ms. Soll for providing a presentation on the bag expansion to the Dublin City Council. President Kalb inquired if a 5% random inspection rate combined with complaint based enforcement would produce better results and asked staff to consider this as we move forward. Board member Hannon recommended that staff work with the cities' licensing and permitting departments to provide information to businesses as they obtain licenses and permits as well as the county health department and other resources. Ms. Soll stated that staff is working with all city and county resources to disseminate information.

Board member Alonzo inquired if there is current staffing available to handle the complaint based enforcement efforts. Ms. Soll stated enforcement will be done by current contractors that handle enforcement for mandatory recycling as well. Board member Zermeno inquired if food trailers are covered under the ordinance. Authority Counsel Taylor stated that the ordinance language states that "Public Eating Establishment" means a restaurant, take-out food establishment or other business (including, but not limited to, food sales from vehicles or temporary facilities open to the public). Under this definition food trailers are considered affected establishments. Board member Moore inquired about the effects to the expanded ordinance if Prop 67 passes and is not annulled by Prop 65. Ms. Soll stated that Prop 67 (SB 270) would not affect our ordinance because our ordinance has been in effect prior to 2014 when SB 270 was passed.

Board member Biddle inquired about the ongoing cost of the ordinance. Ms. Soll stated that with the contribution of \$180,000 from the Clean Water Program, the budget for FY 16/17 is \$110,000, for FY 17/18 \$100,000, and we have estimated \$80,000 for FY 18/19. Ms. Sommer added this budget is for complaint based enforcement and would increase if we include random inspections.

Board member Chan inquired about how the complaint based process would work. Ms. Soll stated that the process would involve complaints being called into our designated hotline or by completing a form online with information about a particular merchant. Our hotline staff will triage the call and forward to inspection staff to follow up, if necessary. Board member Maass inquired about the number of complaints we are now receiving. Ms. Soll stated we are not currently receiving any complaints and we have received an estimated 120 complaints since implementing the ordinance. Other jurisdictions that use the complaint based system have reported that complaints peak in the initial months of the roll-out of the ordinance but gradually drop off. Board member Maass inquired if there is accommodation for low income or disabled persons. Ms. Soll stated the ordinance leaves it at the discretion of the merchant. Board member Sherman requested clarification regarding the "fine" process with respect to consecutive violations. Mr. Mathews stated that fines are assessed based on whether the violation is a transient or non-transient. A transient violation is one that disappears after the garbage is collected, such as recyclables disposed in the garbage or garbage in the recycling. A non-transient violation persists until corrected, like not having recycling service. A transient violation is a fixed fine amount of \$100 for the first violation. A non-transient violation is charged based on the number of days the

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violation persists at \$5 per day. We set a limit of 30 days for a maximum fine of \$150. Ms. Sommer added that the ordinance would be enforced using progressive enforcement. Mr. Mathews added that a citation would be issued only with the approval of the jurisdiction’s primary enforcement officer.

Paul Kumar, Save the Bay, stated their support for the bag expansion and thanked StopWaste staff for working closely with Save the Bay and other stakeholder groups and considers expansion of the ordinance to be an essential tool in ridding toxic plastic trash from the environment. Jessica Lynam, CA Restaurants Association, spoke against the use of reusable bags in restaurants as they may pose a serious health risk with respect to food borne illnesses and asked that the Board consider these issues. Gail Lillian, Oakland Indie Alliance, support the expansion of the ordinance to include eating establishments that allows for the distribution of recycled content paper bags with no charge to the customer. She asked that the Board think through enforcement of random inspections and consider outreach and marketing as adequate enforcement. Board member Chan inquired if we are planning to do advanced notification of implementation dates to stores so that they may use up their current inventory. Ms. Soll stated that we will mail announcements to all affected establishments with ordinance details as well as provide outreach materials in multi-language (Current outreach materials have been translated to y Spanish and Mandarin). Staff will be working with TAC to assess the need for translation of materials to additional languages.

Board member Rood made the motion to introduce Ordinance 2016-2 (Attachment A) by title only, waiving a full reading of the text. Board member Wengraf seconded and the motion carried 18-0 (Oddie and Turner absent).

Board member Ellis made the motion to direct staff to place the ordinance on the agenda for consideration of adoption at the October 26 WMA meeting. Board member Young seconded and the motion carried 18-0 (Oddie and Turner absent).

Board member Cox made the motion to approve a resolution (Attachment B) adopting the Addendum to the Final Environmental Impact Report for the Mandatory Recycling and Single Use Bag Reduction Ordinances. Board member Wengraf seconded and the motion carried 18-0 (Oddie and Turner absent).

2. Support Position for Proposition 67, the Plastic Bag Ban Referendum (Debra Kaufman) Action

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

Debra Kaufman provided an overview of the staff report. The report is available here:

[Prop 67-memo-09-28-16.pdf](#)

Paul Kumar, Save the Bay, concurred with the staff recommendation and added there is strong opposition from plastic bag manufacturers to defeat and overturn current law. Board member Rood inquired if there was consideration to take a position on Prop 65. Ms. Kaufman stated that we felt that Prop 67 is more closely related to our work and Prop 65 references where the money goes. Board member Zermeno stated that the Hayward City Council took a no position on Prop 65 and is disappointed that the Board has not taken a position on it. Board member Moore stated that Prop 65 only references where the money goes but if Prop 65 receives more votes than Prop 67 then Prop 65 passes, which is why he recommends that the Board take a no position on Prop 65. The Board by consensus recommended that staff place the Prop 65 issue on the October 26 WMA agenda.

Board member Chan made the motion to approve the staff recommendation. Board member Rood seconded and the motion carried 17-0 (Oddie, Turner, and Wengraf absent).

3. Priority Setting Exercise (Wendy Sommer) Information
This item is for information only.

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Wendy Sommer provided an overview of the staff report and presented a PowerPoint presentation. The report and presentation is available here: [Priority Setting memo-07-27-16.pdf](#). Ms. Sommer introduced staff Angelina Vergara, Jeff Becerra, and Justin Lehrer, who led the Board through the priority setting exercise.

Mr. Becerra noted a few outcomes from the exercise:

- There was a very clear emphasis on an upstream waste prevention versus downstream discard management focus
- Board results favor a balanced approach on a broader sustainability versus solid waste only focus
- Experimenting and innovating versus tried and true was split 60/40 with a slight emphasis towards experimenting and innovating
- No clear emphasis on organic versus non-organic waste
- Mandatory approaches received slightly more support than voluntary (approximately 60/40 split)
- We should emphasize “doing” over studying and research
- The Board felt strongly that we should be working directly with target audiences instead of conducting outreach via the member agencies

Board member Kalb inquired if the Board could see the results from the TAC exercise. Mr. Becerra stated that the exercise and discussion with TAC revealed a strong preference for mandatory recycling versus voluntary with an emphasis on organics versus non-organic waste. TAC overall wanted the Agency to continue broad-based outreach to supplement their direct outreach to constituents. Board member Stein stressed the importance of having metrics to inform when making a decision. Ms. Sommer stated that staff will provide indicators that will illustrate where we are and where we want to be.

Ms. Sommer stated that staff will synthesize the information received today and will provide more specifics regarding the information from TAC as well as staff. Ms. Sommer added she will present survey results to the City Managers. So far we have received input from the Measure D committee and Arthur Boone, and we are awaiting information from the Northern California Recycling Association (NCRA). Ms. Sommer concluded that we will synthesize all of the input that we are currently gathering from stakeholders and will come back in October to propose guiding principles for the Board to adopt in November. President Kalb inquired if CalRecycle has proposed an area of emphasis. Mr. Lehrer stated that the State has aggressive goals for organics and packaging and has developed strategies to reach those goals. Ms. Sommer added there are also bills that set percentages for food waste and organics to be diverted from the landfill. Ms. Kaufman added the targets include a 50 percent reduction in the level of statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. The regulations are also intended to meet a goal of recovering at least 20 percent of edible food that is currently disposed for human consumption by 2025.

4. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Wendy Sommer) Action

(P&O and Recycling Board meeting, October 13, 2016 at 4:00pm – StopWaste, 1537 Webster St, Oakland, CA)

There were no requests for an interim appointment.

VII. COMMUNICATION/MEMBER COMMENTS

There were none.

Information

VIII. ADJOURNMENT

The meeting adjourned at 4:48 p.m.

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DATE: October 26, 2016
TO: Waste Management Authority Board
FROM: Wendy Sommer, Executive Director
BY: Debra Kaufman, Senior Program Manager
SUBJECT: Final Legislative Update and Recommendation to Adopt a “No” Position on Prop 65

SUMMARY

The Programs & Administration committee and the Planning & Organization committee/Recycling Board received an update on the status of legislation at their October 13 meetings. The memo containing the status of bills can be found here: [Legislative Update-10-13-16.pdf](#)

At their meeting the P&A Committee recommended that the Waste Management Authority take a “no” position on Proposition 65. Staff will return in November to obtain input from the Boards on priorities for the 2017 legislative year.

DISCUSSION

Oppose Position Recommended for Proposition 65

On September 28, the WMA Board took a support position on Proposition 67 to uphold the statewide single use plastic bag ban (SB 270). At that meeting, the WMA Board requested that staff return with a recommended position on Proposition 65. Staff is recommending an “oppose” or “no” position on Proposition 65 as this measure is sponsored by the plastics industry and widely recognized as an effort to confuse voters and dilute support for Proposition 67. Proposition 65 requires that the fees collected for paper and reusable plastic bags be directed to an environmental fund for unknown purposes. The text of Proposition 65 is included as Attachment A.

If 67 fails, there will be no statewide ban on single-use plastic bags. If 67 passes and 65 passes with a greater number of “yes” votes than 67, then the statewide ban will stand but fees collected at checkout counters for paper and reusable plastic bags will not be retained by retailers. This is contrary to existing local bag ordinances, which allow the retailers to retain these fees. If 67 fails and 65 passes, then revenue from any future statewide law similar to SB 270 would be directed to environmental programs. The State Legislative Analyst’s Office notes that a provision of 65 could be interpreted by the courts as preventing SB 270 from going into effect at all. Neither proposition will impact our Agency’s current

ordinance or planned expansion. The table below shows how passage of each proposition will affect implementation.

How Implementation of Proposition 65 Would be Affected by Outcome of Referendum

	Proposition 67 (SB 270 Referendum) Passes	Proposition 67 (SB 270 Referendum) Fails
Proposition 65 (Initiative) Passes	<p>Statewide carryout bag law in effect. Use of revenues from sale of carryout bags depends on which proposition gets more votes:</p> <p>If more “yes” votes for referendum, revenue is kept by stores.</p> <p>If more “yes” votes for initiative, revenue goes to state for environmental programs.*</p>	<p>No statewide carryout bag law. Revenue from any future statewide law similar to SB 270 would be used for environmental programs.</p>
Proposition 65 (Initiative) Fails	<p>Statewide carryout bag law in effect and revenue from the sale of carryout bags is kept by stores.</p>	<p>No statewide carryout bag law.</p>

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

RECOMMENDATION

Receive the 2016 legislative status update and adopt a “no” position on Proposition 65.

Attachment A: Proposition 65 text

PROPOSITION
65 CARRYOUT BAGS. CHARGES.
INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Redirects money collected by grocery and certain other retail stores through sale of carryout bags, whenever any state law bans free distribution of a particular kind of carryout bag and mandates the sale of any other kind of carryout bag.
- Requires stores to deposit bag sale proceeds into a special fund administered by the Wildlife Conservation Board to support specified categories of environmental projects.
- Provides for Board to develop regulations implementing law.

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

- Potential state revenue of several tens of millions of dollars annually under certain circumstances. Revenue would be used to support certain environmental programs.

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 can 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.

Statewide Carryout Bag Law. In 2014, the Legislature passed and the Governor signed a statewide carryout bag law, Senate Bill (SB) 270. Similar to many local laws, SB 270 prohibits most grocery stores, convenience stores, large pharmacies, and liquor stores in the state from providing single-use plastic

carryout bags. It also requires a store to charge customers at least 10 cents for any carryout bag that it provides at checkout. Certain low-income customers would not have to pay the charge. Under SB 270, 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. These requirements would apply only to cities and counties that did not already have their own carryout bag laws as of the fall of 2014.

Referendum on SB 270. 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. A referendum on SB 270 qualified for this ballot (Proposition 67). If the referendum passes, SB 270 will go into effect. If it does not pass, SB 270 will be repealed.

PROPOSAL

Redirects Carryout Bag Revenue to New State Environmental Fund. This measure specifies how revenue could be used that resulted from any state law that (1) prohibits giving certain carryout bags away for free and (2) requires a minimum charge for other types of carryout bags. Specifically, this measure requires that the resulting revenue be deposited in a new state fund—the Environmental Protection and Enhancement Fund—for various environmental purposes rather than be retained by stores. The fund would be used to support grants for programs and projects related to (1) drought mitigation; (2) recycling; (3) clean drinking water supplies; (4) state, regional, and local parks; (5) beach cleanup; (6) litter removal; and (7) wildlife habitat restoration. The measure allows a small portion of these funds to be used for grant administration and biennial audits of the programs receiving funds.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Other Provisions. Additionally, the measure allows local governments to require that money collected from local carryout bag laws go to the new state fund rather than allowing that revenue to be kept by stores. It also includes a provision regarding the implementation of this measure and any other carryout bag measure on this ballot. This provision could be interpreted by the courts as preventing Proposition 67 (the referendum on SB 270) from going into effect. This provision would only have an effect if both measures pass and this measure (Proposition 65) gets more “yes” votes. However, this analysis assumes that in this situation the provisions of Proposition 67 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

If the requirements of this measure (that there is a state law prohibiting giving certain carryout bags away for free and requiring a minimum charge for other bags) are met, then there would be increased state revenue for certain environmental programs. This revenue could reach several tens of millions of dollars annually. The actual amount of revenue could be higher or lower based on several factors, particularly future sales and prices of carryout bags.

At the present time, there is no state law in effect that meets this measure’s requirements. As such, there would be no fiscal effect as long as that continued. As noted earlier, however, Proposition 67 on this ballot would enact such a state law. If both Proposition 67 and this measure (Proposition 65) pass, the impact on the state would depend on which one receives the most votes:

- **Proposition 67 (Referendum) Receives More Votes.** In this situation, revenue collected by the stores

would be kept by the stores and there would not be a fiscal impact on the state related to Proposition 65.

- **Proposition 65 (Initiative) Receives More Votes.** In this situation, any revenue collected by stores from the sale of carryout bags would be transferred to the new state fund, with the increased state revenue used to support certain environmental programs.

In addition, if only this measure passes and Proposition 67 fails (which means there would not currently be a statewide law to which this measure would apply), there could still be a fiscal impact if a state carryout bag law was enacted in the future. Figure 1 shows how this measure would be implemented differently depending on different voter decisions.

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 Proposition 65
Would Be Affected by Outcome of Referendum**

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

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 65 ★

STOP THE SWEETHEART BAG TAX DEAL. HELP THE ENVIRONMENT

Proposition 65 is needed to STOP grocery stores from keeping all the money collected from carryout bag taxes as profit instead of helping the environment.

Grocery stores stand to gain up to \$300 million in added profits each and every year unless you vote yes on Prop. 65.

That money should be dedicated to the environment, not more profits for corporate grocery chains.

Proposition 65 will STOP THE SWEETHEART DEAL WITH GROCERY STORES and dedicate bag fees to worthy environmental causes.

A SWEETHEART DEAL IN SACRAMENTO

Who in their right mind would let grocery stores keep \$300 million in bag fees paid by hardworking California shoppers just trying to make ends meet? The State Legislature!

In a sweetheart deal put together by special interest lobbyists, the Legislature voted to let grocery stores keep bag fees as extra profit.

The grocery stores will get \$300 million richer while shoppers get \$300 million poorer.

SHAME ON THE LOBBYISTS AND LEGISLATORS

The big grocery store chains and retailers gave big campaign contributions to legislators over the past seven years.

And legislators rewarded them with \$300 million in new profits—all on the backs of shoppers.

Stop the sweetheart special interest deal . . . VOTE YES ON PROP. 65.

A BETTER WAY TO HELP THE ENVIRONMENT

You can do what the legislators should have done—dedicate these bag fees to real projects that protect the environment.

Proposition 65 dedicates the bag fees to environmental projects like drought relief, beach clean-up and litter removal.

It puts the California Wildlife Conservation Board in control of these funds, not grocery store executives, so Californians will benefit.

PROTECT THE ENVIRONMENT. STOP THE SWEETHEART DEAL AND HIDDEN BAG TAX.

VOTE YES ON PROP. 65.

THOMAS HUDSON, Executive Director California Taxpayer Protection Committee
DEBORAH HOWARD, Executive Director California Senior Advocates League

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 65 ★

The *San Jose Mercury News* calls Proposition 65 a “tricky strategy” and adds “Prop. 65 deserves consideration as one of the most disingenuous ballot measures in state history.”

The out-of-state plastic manufacturers behind Prop. 65 don’t care about protecting California’s environment. They want to confuse you. Don’t be fooled.

Bags aren’t free; they cost your local grocer up to 15 cents each. The out-of-state plastic bag industry figures are bogus. The state’s nonpartisan analysis projects that total revenue from Prop. 65 is in the range of “zero” to, at best, \$80 million.

Remember: there will be “zero” funding for the environment from Prop. 65 unless voters approve Prop. 67 to phase out plastic bags.

But the plastic manufacturers behind Prop. 65 are spending millions to persuade voters to oppose Prop. 67. Confused? That’s the plastic industry’s plan!

If you care about protecting wildlife and standing up to the out-of-state plastic bag industry, Vote Yes on Prop. 67, not this measure.

If you care about reducing plastic pollution, litter and waste, Vote Yes on Prop. 67, not this measure.

If you care about reducing taxpayer costs for cleaning up plastic litter, Vote Yes on Prop. 67, not this measure.

MARK MURRAY, Executive Director Californians Against Waste

★ ARGUMENT AGAINST PROPOSITION 65 ★

THE SOLE PURPOSE OF PROP. 65 IS TO CONFUSE VOTERS

Prop. 65 promises a lot but—in reality—will deliver little for the environment. It was placed on the ballot by four out-of-state plastic bag companies who keep interfering with California's efforts to reduce plastic pollution.

65 is without real significance, designed to distract from the issue at hand: phasing out plastic shopping bags. All 65 would do is direct funding from the sale of paper bags (an option under the plastic bag ban) to a new state fund. The money for this fund is a drop in the bucket and will shrink over time as people adjust to bringing reusable bags.

TO ACTUALLY PROTECT OUR ENVIRONMENT, VOTE YES ON 67

The priority for California's environment this election is to reduce harmful plastic pollution by voting Yes on Prop. 67. This will continue efforts to keep wasteful plastic shopping bags out of our parks, trees, neighborhoods and treasured open spaces.

Prop. 65 is not worth your vote. Make your voice heard on the more important issues and uphold California's vital plastic bag ban further down the ballot.

MARK MURRAY, Executive Director
Californians Against Waste

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 65 ★

The opponents of Prop. 65 want to dismiss it as "of no real significance".

YOU DECIDE: IS A \$300 MILLION MONEY GRAB BY GROCERY STORES NOT SIGNIFICANT?

Without Prop. 65, not one penny of the \$300 million customers will be required to pay if California's ban on plastic bags goes into effect will help the environment.

All \$300 million will go to grocery store profits.
THAT'S \$300 MILLION EVERY YEAR!

VOTE YES ON 65—STOP THE SWEETHEART GIVEAWAY TO GROCERS.

In a sweetheart deal put together by special interest lobbyists, the Legislature voted to BAN plastic bags and REQUIRE grocery stores keep bag fees as profit.

Their "plastic bag ban" REQUIRES grocery stores to charge every consumer given a bag at check-out no less than 10 cents per bag.

They could have banned plastic bags without a fee or dedicated fees to environmental projects.

They didn't.

Instead, they made grocery stores \$300 million richer and shoppers \$300 million poorer every year.
A BETTER WAY TO PROTECT THE ENVIRONMENT.

You can do what the Legislature should have done—dedicate bag fees to projects that protect the environment.

Prop. 65 dedicates bag fees to environmental projects like drought relief, beach clean-up and litter removal.

It puts the California Wildlife Conservation Board in control of these funds, not grocery store executives.

PROP. 65 WILL DEDICATE BAG FEES TO THE ENVIRONMENT.

It's simple and significant.

Join us—vote YES.

THOMAS HUDSON, Executive Director
California Taxpayer Protection Committee

DEBORAH HOWARD, Executive Director
California Senior Advocates League

MEETING NOTES

Energy Council TECHNICAL ADVISORY GROUP (TAG)

Tuesday, October 18, 2016 – 1:00 pm to 3:00 pm

Attendance:

County of Alameda: Damien Gossett

City of Alameda: Maria DiMeglio (phone)

City of Albany: Claire Griffing

City of Berkeley: Billi Romain

City of Dublin: Rebecca Parnes

City of Emeryville: Hoi Fei Mok

City of Hayward: Mary Thomas

City of Livermore: Judy Erlandson (phone)

City of Oakland: Shayna Hirshfield – Gold

City of Piedmont: Emily Alvarez

StopWaste: Heather Larson, Karen Kho, Miya Kitahara, Wes Sullens, Tommy Fenster

Guests: Amy Dao and Lena Lopez, PG&E, Cara Bautista-Rao – City of Walnut Creek (phone)

Civic Spark: Fanny Yang, Gilee Corral, Yoni Carnice, Jasmine Bagha, Philip Tran, Margaux Sleckman, Christopher Sturken, Benjamin Davenport, Olivia Ashmoore, Brian Reyes, Bree Swenson (Local Government Commission), Michael Baker International

Meeting Notes

PG&E Community Energy Data

Contra Costa County Jurisdictions were invited to participate in this meeting as some items might relate to current issues being addressed through EBEW (East Bay Energy Watch) which is a two county partnership.

- Amy Dao from PG&E presented about changes to the Community Energy Reports that jurisdictions receive due to new CPUC privacy aggregation rules. (See presentation)
- PG&E is now required to apply 15/15 rule to all customer classes, whereas previously it was only applied to industrial. This makes it difficult to compare CAP data from prior community energy reports.
- Amy presented 4 options for addressing the data.
- Option 1 Re-pull 2005-2013
 - Will be a lot of work for cities to rerun numbers for prior inventories
- Option 2 PG&E aggregates to larger categories (ie all-sectors)
- Option 3 Submit data request through Energy Data Request program

- Data cannot be made public
- If you combine different data sources in an analysis, could use the analysis for a public report without disclosing raw data.
- Quickest turnaround is 7 weeks for a report
- Can make specialized request to get consistent sector data over time. This would address issue of a customer on borderline of triggering 15/15 rule being include or excluded
- Option 4 requires a jurisdiction to get a customer authorization form from the customer(s) who trigger the aggregation rules.
- PG&E will have staffing available to respond to data requests
- StopWaste could aggregate some data countywide and then apportion out to jurisdictions
- Natural gas usage is down because of abnormally mild weather.

EBEW Coordination

- ICLEI training sponsored by StopWaste
- Solicitation for new co-chairs is out. Erik Pearson from Hayward has expressed interested from Alameda County , and San Pablo/Orinda are potentially interested in Contra Costa County

Board Updates

County BOS approved the JPA, with 3 major changes:

1. Limitation on use of Tier 3 RECs
2. 3 cities are required to call a voting shares vote; Was a source of debate between small and larger cities
3. Business plan required – local renewable buildout viability needs to be completed within 8 months of seating of the Board

Also included a clause in JPA and into the recitals about neutrality on petitions by CCA employees to unionize

- City of Hayward is excited to move forward
- City of San Leandro seems like they will also move forward
- Anticipated formation of JPA at the end of the year.
- CPUC directed PCIA Working group meeting is coming up, may be hosted by StopWaste

Program Updates

- Last multifamily workshop of the year is being planned, so if you are interested in supporting outreach please follow up with Candis.
- Tommy Fenster handed out brochures for the single-family program to be displayed at permit counters
- November 16 Codes & Standards forum at Brower Center with a focus on ZNE. Case studies will be presented.
- Heather provided an update on the BayREN ZNE technical assistance pilot (see presentation)

- Hayward's goal is to include existing buildings in ZNE plan by 2025. May get half of the way there with cogen plant.
- Will be including analysis on biogas for Hayward, an alternative to fuel switching
- BayREN single-family program is undergoing a major revamp for the Business Plan process. Initial feedback was not positive on a continuation of the Home Upgrade program.

Built Environment Technical Assistance Scoping

- Commercial analysis shows that retrofitting existing buildings creates like GHG impact than building new ZNE building
- WMA funded technical assistance
- Miya provided an overview of opportunities to address embodied energy and increase circular economy opportunities in the buildings sector (see presentation)
- Oakland and Hayward potentially interested in pilot; See where there are barriers standing in the way. Is there a market for these materials? Is their labor?
- Gap analysis in how to make the loop happen
- May need to update Climate Action Plans to get credit for doing this work; Timing is good to include in CAPs. What would metrics look like in a pilot project?
- If you are pursuing a LEED project, this could be an opportunity for innovation credit
- Economic development departments maybe in conflict with the goal of retrofitting
- Retrofitting a building to be ready for electric vehicles, etc. Microgrids at neighborhood level
- Package in a resiliency approach
- Look at a reuse success like Impact Hub Oakland and see what worked.

Member Comments & Discussion

- Mary asked when are jurisdictions updating their CAPs
- Piedmont is starting with CivicSpark intern, updating to 2030. Keeping a closer goal to better motivate residents.
- Dublin is planning to update in 2017, but it may be postponed.
- Emeryville's CAP is too old to qualify for Compact of Mayors
- Talk about CAP updates in the light of state leaderships
- Emeryville is updating its CAP and creating a separating implementation plan that staff could update more easily when technology and policies change
- Albany is sharing CivicSpark with Emeryville to update CAP

NEXT TAG MEETING: Oct, 18 2016 1-3pm

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Date: September 28, 2016

TO: Waste Management Authority and Recycling Board

FROM: Wendy Sommer, Executive Director

SUBJECT: Grants Issued Under Executive Director Signature Authority

SUMMARY

The purchasing and grant policies were amended to simplify paperwork and Board agendas by giving the Executive Director authority to sign contracts and grant agreements less than \$50,000. A condition of the grant policy is that staff informs the Board of recently issued grants.

Grants – July 15, 2016 through September 15, 2016

PROJECT NAME	GRANT RECIPIENT	PROJECT TYPE/DESCRIPTION	LOCATION	VERIFICATION	GRANT AMOUNT	BOARD
Community Outreach Grants	Community Resources for Independent Living	Nonprofit grant funds to promote food scrap recycling to difficult to reach audiences. Grantees utilize Agency outreach materials to reach their communities using their own networks and social media.	Hayward	Reports and Pledges	\$5,000	RB
Mini Grant	Eat Real Festival	Promotion of Save the Food campaign at large food festival in Oakland. Funding allowed StopWaste to promote food waste prevention activities at a centrally located booth throughout the 3 day festival with 75,000 attendees as well as post on various Eat Real Festival social media platforms.	Oakland	Final report, including waste generation data for festival.	\$5,000	RB

Partner Community Outreach Grant	Dublin Partners in Education AND Rotary Club of Dublin	Engage qualified Community Based Organizations to extend their reach and impact to promote food scrap recycling to a wider community by partnering with one another.	Dublin	Reports, Pledges and Social Media analysis	\$5,000 EACH	RB
Mini Grant	Go BOX SF Bay	Grant to increase reusable food ware program in Alameda County, specifically downtown Oakland.	Oakland	Final Report, tracking new vendors and users of GO Box SF Bay	\$5,000	RB
Bay-Friendly Rated Landscape Grant	Alameda County, GSA	The East County Hall of Justice will have 4.5 acres of new landscape area. The landscape will be Bay-Friendly Rated and is expected to incorporate 650 tons of recycled compost and mulch. The BF Rating includes many other waste prevention and recycling practices. The funds will be used toward the cost of the Bay-Friendly Rating.	Dublin	Bay-Friendly Rater will verify implementation of practices and ReScape CA will issue a certificate upon completion.	\$10,000	WMA
Bay-Friendly Rated Landscape Grant	City of San Leandro	Siempre Verde Park is going through a major landscape renovation and is seeking to be a Bay-Friendly Rated Landscape. The planting area of the park is one acre out of the 1.8 acre site. This project is expected to incorporate 160 tons of recycled compost and mulch. The BF Rating includes many other waste prevention and recycling practices. The funds will be put toward the cost of the Bay-Friendly Rating.	San Leandro	Bay-Friendly Rater will verify implementation of practices and ReScape CA will issue a certificate upon completion.	\$5,000	WMA



DATE: October 26, 2016

TO: Waste Management Authority Board

FROM: Wendy Sommer, Executive Director

BY: Meri Soll, Senior Program Manager

SUBJECT: Expanded Single Use Bag Reduction Ordinance Adoption

SUMMARY

At the October 26 meeting, the WMA board will consider adoption of the Single Use Bag Reduction Ordinance 2016-2.

DISCUSSION

At the meeting of September 28, 2016, the Authority Board adopted an addendum to the environmental impact report for the single use bag reduction ordinance, considered the proposed expanded ordinance 2016-2 by title only, waiving a full reading of the full text, and introduced the ordinance for consideration of adoption at the October 26, 2016 WMA meeting. Attachment A provides the full text of the ordinance.

With the adoption of the expanded ordinance, there will be a large increase in covered stores (13,000 new stores). This will be a ten-fold increase in covered accounts. As previously discussed the ordinance will therefore be enforced using a complaint-based enforcement program. During the first year that the ordinance is in effect staff will monitor complaints and reports on compliance and report to the Board on whether the enforcement effort should be broadened in subsequent years with a random inspection protocol. This assessment period will be the most cost-effective and prudent use of Agency resources prior to revising/enhancing the expected complaint-based inspection process.

Timeline for Member Agency Participation:

As with the original Single Use Bag Reduction Ordinance, if the amendment is adopted, each member agency with a service area described in the ordinance is automatically opted in to the expanded requirements unless the member agency chooses to exclude its service area from compliance with the new requirements. A member agency may do so by opting out via a resolution adopted by its governing body prior to December 9, 2016. An agency that opts out can opt back in to the expanded ordinance coverage at any time, with approval of the Executive Director or WMA Board. As with the original Single Use Bag Reduction Ordinance, the County's service area for the purpose of the amended ordinance is the unincorporated county including the sanitary districts. The WMA designed the ordinance to use these 15 service areas, rather than the 17 solid waste service areas of our 17 member agencies, to streamline implementation and better coordinate with the countywide stormwater program.

Timeline for Ordinance Implementation

October 26, 2016	Adoption of ordinance
May 1, 2017	Ordinance affects newly covered Retail Stores
November 1, 2017	Ordinance Enforcement (complaint based) begins for Retail Stores
November 1, 2017	Ordinance affects all Public Eating Establishments
May 1, 2018	Ordinance Enforcement (complaint based) begins for Public Eating Establishments

RECOMMENDATION

It is recommended that the Authority Board adopt the ordinance set forth in Attachment A at its October 26, 2016 meeting.

ATTACHMENT A	Ordinance 2016-2 Amending Ordinance 2012-2, Regulating The Use Of Carryout Bags And Promoting The Use Of Reusable Bags
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ATTACHMENT A
ORDINANCE 2016-02
AMENDING ORDINANCE 2012-02

**ORDINANCE REGULATING THE USE OF CARRYOUT BAGS
AND PROMOTING THE USE OF REUSABLE BAGS**

The Board of the Alameda County Waste Management Authority (“Authority”) finds that:

1. In 2012 the Authority adopted Ordinance 2012-02, the Ordinance Regulating The Use Of Carryout Bags and Promoting the Use of Reusable Bags. For the reasons set forth in the findings in Exhibit A, the Authority wishes to amend the ordinance to apply its requirements to stores not subject to the original ordinance and to make minor clarifying changes.
2. The Board of the Alameda County Waste Management Authority held a public meeting on September 28, 2016, and after considering all testimony and written materials provided in connection with that meeting introduced this ordinance and waived the reading thereof.

Therefore, the Board of the Authority hereby ordains as follows:

Section 1. Adoption.

Ordinance 2012-02, the Ordinance Regulating The Use Of Carryout Bags and Promoting the Use of Reusable Bags is hereby amended as set forth in Exhibit A. Text to be added is indicated in bold double underlined font (e.g., **underlined**) and text to be deleted is indicated in strikeout font (e.g., ~~strikeout~~).

Section 2. Severability.

If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

Section 3. Publication.

Within 15 days after adoption of a summary of the ordinance with the names of those voting for and against, the ordinance shall be published and a certified copy of the full text with the names of those voting for and against the ordinance shall either (i) be posted on the Authority’s website or (ii) be posted in the Authority offices.

- Continued on following page -

Following introduction on September 28, 2016, passed and adopted October 26, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of the ORDINANCE NO. 2016-02.

Wendy Sommer
EXECUTIVE DIRECTOR

Exhibit A

ORDINANCE 2012-2 AS AMENDED BY ORDINANCE 2016-2

ORDINANCE REGULATING THE USE OF CARRYOUT BAGS AND PROMOTING THE USE OF REUSABLE BAGS

The Board of the Alameda County Waste Management Authority (“Authority”) ordains as follows:

SECTION 1 (Enactment)

The Board of the Authority does hereby enact this Ordinance in full consisting of Section 1 through Section ~~10~~10.

SECTION 2 (Findings)

- (a) The purpose of this Ordinance is to reduce the use of single use carryout bags and promote the use of reusable bags at the point of sale in Alameda County.
- (b) The Authority has the power to enact this Ordinance pursuant to the Joint Exercise of Powers Agreement for Waste Management (“JPA”). The JPA grants the Authority the power, duty, and responsibility to prepare, adopt, revise, amend, administer, enforce and implement the County Integrated Waste Management Plan (“CoIWMP”), and pursuant to Section 5.m of the JPA, the power to adopt ordinances necessary to carry out the purposes of the JPA.
- (c) Reducing single use bag use is reasonably necessary to carry out the purposes of the JPA and implement the CoIWMP, including the following goals and policies.
- (d) Goal 1 of the CoIWMP is to promote environmental quality, ensure protection of public health and safety, and to minimize environmental impacts in all aspects of solid waste management. Policy 1.4.1 includes reduction of hard to recycle materials.
- (e) Goal 2 of the CoIWMP calls on the Authority and its member agencies to achieve maximum feasible waste reduction and to reduce the amount of waste disposed at landfills through improved management and conservation of resources.
- (f) Policy 2.1.1 adopts a waste management hierarchy that ranks management of waste through source reduction and then recycling and composting above landfill disposal.
- (g) Goal 7 of the CoIMWP is to Promote Inter-jurisdictional Cooperation. Policy 7.1.3 states that the Authority shall coordinate with other organizations as needed to fulfill its countywide role including coordinating on related issues such as water and litter. Objective 7.8 states that the Authority will coordinate and facilitate program implementation by individual or subregional groupings of member agencies.

- (h) Numerous studies have documented the prevalence of plastic carry-out bags littering the environment, blocking storm drains and fouling beaches.
- (i) Plastic bags are a substantial source of marine debris.
- (j) Plastic bags cause operational problems at County landfills and transfer stations and contribute to litter countywide.
- (k) ~~The Authority has participated in a campaign with The Bay Area Recycling Outreach Coalition to promote reusable bags countywide for several years. Despite these efforts, plastic bags comprise 9.6% of litter collected during coastal cleanup days (based on 2008 data) in Alameda County. Additionally, plastic bags continue to cause processing equipment problems at County transfer stations.~~ **Agency studies show that as a result of Ordinance 2012-2, there has been a 44% decrease in plastic bags found in Alameda County Storm drains and a 69% decrease in paper and plastic bags at point of sale, and the number of shoppers bringing a reusable bag to affected stores, or not using a bag at all, has more than doubled.**
- (l) **Member Agencies are required by the Municipal Regional Permit (MRP) for storm water to reduce trash by 70% by 2017 and 100% by 2022, with cities having the option to implement plastic bag bans to achieve these requirements.**
- (m) There are several alternatives to single-use carry-out bags readily available.
- (n) ~~Studies document that banning single use plastic bags and charging for single use paper bags will dramatically reduce the single use of both types of bags.~~ **Despite the positive impacts of the existing ordinance, it is estimated that 62% of the projected 764 million bags distributed in Alameda County are distributed by currently affected stores. Further efforts are needed to decrease single-use checkout bags.**
- (o) The Authority prepared the Mandatory Recycling and Single Use Bag Reduction Ordinances Environmental Impact Report, which considered two separate projects and included the environmental review required by the California Environmental Quality Act for this Ordinance. The Authority certified those portions of the EIR relevant to this Ordinance. **The Authority prepared an Addendum that analyzed the environmental impacts associated with amending the reusable bag ordinance and found that the amendments would not result in any new significant environmental impacts that were not addressed in the EIR and will not cause any impacts to be substantially greater than were identified in the EIR. Nor do changed circumstances or new information reveal the ordinance would have any significant impacts not considered in the EIR or result in increases in the severity of any impacts identified in the EIR.**
- (p) **This ordinance will be enforced using the principle of progressive enforcement with the objective of bringing the regulated community into compliance.**

Progressive enforcement measures shall be used in the following order in order to promote compliance: (i) official notification of non-compliance, (ii) warning of an impending administrative citation and related fine, (iii) issuance of an administrative citation and fine, and (iv) civil enforcement and/or criminal enforcement if warranted by the nature of the violation.

SECTION 3 (Definitions)

The definitions set forth in this Section shall govern the application and interpretation of this ordinance.

- (a) “Alameda County” means all of the territory located within the incorporated and unincorporated areas of Alameda County.
- (b) “Authority” means the Alameda County Waste Management Authority created by the Joint Exercise of Powers Agreement for Waste Management (JPA).
- (c) “Authority Representative” means any agent of the Authority designated by the Enforcement Official to implement this Ordinance, including Member Agency employees, or private contractors hired for purposes of monitoring and enforcement.
- (d) “Covered Jurisdiction” means a Member Agency of the JPA that has not opted out of coverage under **Ordinance 2012-02 or Ordinance 2016-02** ~~this Ordinance~~ pursuant to Section ~~98~~ of this Ordinance. **“2012 Covered Jurisdiction” means a Member Agency. “2016 Covered Jurisdiction” means a Member Agency that has not opted out of coverage under Ordinance 2016-02.**
- (e) “Customer” means any Person obtaining goods from a Store.
- (f) “Enforcement Official” means the Executive Director of the Authority or his or her authorized designee.
- (g) “Executive Director” means the individual appointed by the Authority Board to act as head of staff and perform those duties specified by the Authority Rules of Procedure and by the Board.
- (h) “Member Agency” means a party to the JPA. Current member agencies are the County of Alameda, the Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, Union City, and the Castro Valley and Oro Loma Sanitary Districts. The service areas for the purpose of Section ~~98~~ of this Ordinance are:
 - (1) The legal boundaries of each of the 14 incorporated municipalities within Alameda County.
 - (2) The unincorporated sections of the County.

- (i) “Nonprofit Charitable Reuse Organization” means a charitable organization recognized as having Section 501 (c)(3) status by the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than fifty percent (50%) of its revenues from the handling and sale of those donated goods or materials.
- (j) “Person” means an individual, firm, public or private corporation, limited liability company, partnership, industry or any other entity whatsoever.
- (k) “Postconsumer recycled material” means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.
- (l) “Primary Enforcement Representative” is the chief executive of a Covered Jurisdiction or a qualified designee who will coordinate with the Authority regarding implementation of the Ordinance. A qualified designee shall have at least two years of municipal code enforcement experience or have undergone at least the level one municipal code compliance training program of the California Association of Code Enforcement Officers, or equivalent training program approved by the Enforcement Official.
- (m) **“Produce/Product Bags” are bags that are integral to the packaging of the product, or bags without handles provided to the Customer (i) to transport produce, bulk food or meat from a produce, bulk food or meat department within a Store to the point of sale, (ii) to hold prescription medication dispensed from a pharmacy, or (iii) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Content Paper Bag.**
- (n) “Public Eating Establishment” means a restaurant, take-out food establishment or other business **(including, but not limited to, food sales from vehicles or temporary facilities open to the public)** that receives 90% or more of its revenue from the sale of **prepared and ready-to-consume** foods and/or drinks **to the public** ~~prepared on the premises.~~
- (o) “Recycled **Content** Paper Bag” means a paper bag provided by a Store to a Customer at the check stand, cash register, point of sale, or other location for the purpose of transporting food or merchandise out of the Store and that contains no oldgrowth fiber and a minimum of forty percent (40%) postconsumer recycled material; is one hundred percent (100%) recyclable and compostable, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; and has printed in a highly visible manner on the outside of the bag the words “Recyclable,” the name and location of the manufacturer, and the percentage of post-consumer recycled content.

- (p) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: 1) has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; 2) has a minimum volume of 15 liters; 3) is machine washable or is made from a material that can be cleaned or disinfected; 4) does not contain lead, cadmium or any other heavy metal in toxic amounts, as defined by applicable state and federal standards and regulations for packaging or reusable bags; 5) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used, if any; and 6) if made of plastic, is a minimum of at least 2.25 mils thick.
- (q) "Single-Use Carryout Bag" means a bag other than a Reusable Bag provided at the check stand, cash register, point of sale or other location for the purpose of transporting food or merchandise out of the Store. Single-Use Carryout Bags do not include **Produce/Product Bags**, ~~bags that are integral to the packaging of the product, or bags without handles provided to the Customer (i) to transport produce, bulk food or meat from a produce, bulk food or meat department within a Store to the point of sale, (ii) to hold prescription medication dispensed from a pharmacy, or (iii) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Paper Bag.~~
- (r) "Store" means any of the following stores located within Covered Jurisdictions:
- (1) **Within 2012 Covered Jurisdictions a** A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, that sells a line of dry grocery, canned goods, or nonfood items and some perishable items;
 - (2) **Within 2012 Covered Jurisdictions a** A store of at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or
 - (3) **Within 2012 Covered Jurisdictions a** A drug store, pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of goods that include milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 license issued by the Department of Alcoholic Beverage Control.
 - (4) **Within 2016 Covered Jurisdictions on and after May 1, 2017 the stores listed in sections 3(r)(1), (2) and (3) above and any other commercial establishment operating from a permanent enclosed structure that sells perishable or nonperishable goods including, but not limited to, clothing, food and personal items directly to a customer; and**

(5) Within 2016 Covered Jurisdictions on and after November 1, 2017 any Public Eating Establishment.

SECTION 4 (Carryout Bag Restrictions)

- (a) No Store shall provide a Single-Use Carryout Bag or Reusable Bag to a Customer at the check stand, cash register, point of sale or other location for the purpose of transporting food or merchandise out of the Store ~~after January 1, 2013~~ except as provided in this Section.
- (b) ~~On or before January 1, 2015, a~~ **A** Store may make available for sale to a Customer a Recycled **Content** Paper Bag or a Reusable Bag for a minimum price of ten cents (\$0.10).
- (c) **A Store that is a Public Eating Establishment may make available to a Customer a Recycled Content Paper Bag at no charge, or a Reusable Bag for a minimum price of ten cents (\$0.10).** ~~On or after January 1, 2015, a Store may make available for sale to a Customer a Recycled Paper Bag or a Reusable Bag for a minimum price of twenty five cents (\$0.25). This restriction, however, shall not apply if the Authority finds, after January 1, 2014, that the Ordinance has achieved its goal to substantially reduce the environmental impacts of the use of Single Use Carryout Bags, in which case the minimum ten cents (\$0.10) per bag price provided in Section 4(b) shall apply.~~
- (d) No Store may make available for sale a Recycled **Content** Paper Bag or Reusable Bag unless the amount of the sale of the Recycled **Content** Paper Bag and Reusable Bag is separately itemized on the sales receipt.
- (e) A Store may provide a Reusable Bag at no charge if it is distributed as part of an infrequent and limited time promotion. An infrequent and limited time promotion shall not exceed a total of 90 days in any consecutive 12 month period.
- (f) A Store may provide free Reusable Bags or free Recycled **Content** Paper Bags at the point of sale to a Customer participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code; **a Customer participating in Calfresh pursuant to Chapter 1 commencing with Section 18900) of Part 6 of Division 9 of the California Welfare and Institutions Code;** and a Customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code, as necessary to carry the items purchased at the Store by each such Customer.

SECTION 5 (Permitted Bags)

Nothing in this Ordinance prohibits Customers from using bags of any type that they bring to the Store themselves or from carrying away goods that are not placed in a bag.

SECTION 6 (Exemptions)

This Ordinance does not apply to:

- (a) ~~Single-Use Carryout Bags or Reusable Bags~~ **Produce/Product Bags** distributed to Customers by food providers for the purpose of safeguarding public health and safety during the transportation of take-out foods and drinks prepared on the food provider's premises but intended for consumption at or away from the food provider's premises.
- (b) Single-Use Carryout Bags or Reusable Bags used by ~~Public Eating Establishments~~ or Nonprofit Charitable Reuse Organizations.
- (c) **Stores operating in a certified farmers' market registered in accordance with Section 47020 of the California Food and Agricultural Code.**

SECTION 7 (Recordkeeping and Inspection)

- (a) ~~Every Store shall keep complete and accurate records of the number of Recycled Paper Bags and the number of Reusable Bags purchased and sold each month at the Store during the period commencing July 1, 2012 and ending December 31, 2013. The store shall also keep complete and accurate records of the days on which free Reusable Bags are distributed pursuant to section 4(e) of this Ordinance. All records required by this Ordinance shall be available for inspection within 7 days of the Authority's request at no cost to the Authority during regular business hours by any Authority Representative authorized to enforce this Ordinance. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Store address.~~
- (b) ~~The provision of false information including incomplete records or documents to the Authority shall be a violation of this Ordinance.~~
- (c) ~~Authority Representatives are authorized to conduct any other inspections reasonably necessary to further the goals of this Ordinance, subject to applicable laws.~~

SECTION 87 (Enforcement and Phasing)

- (a) **Pre-enforcement Consultation.** An enforcement action shall not be taken in any Covered Jurisdiction without written approval from the Primary Enforcement Representative of that Covered Jurisdiction. The Primary Enforcement Representative

shall provide approval or disapproval of a proposed enforcement action in a timely manner.

- (b) **Administrative Enforcement.** Violation of any provision of this Ordinance shall constitute grounds for assessment of a notice of violation and fine by an Authority Representative in accordance with Government Code § 53069.4 or as the code shall subsequently be amended or reorganized. Where an enforcement action is necessary to enforce this Ordinance, the Enforcement Official will typically issue a notice of violation as authorized in this subsection prior to taking the actions authorized pursuant to sections ~~78~~(c) or ~~78~~(d) of this Ordinance. A separate notice of violation and fine may be imposed for each day on which a violation occurs. The fine shall not exceed the amounts detailed for misdemeanors in Section ~~78~~(d) of this Ordinance. The notice of violation shall list the specific violation and fine amount and describe how to pay the fine and how to request an administrative hearing to contest the notice of violation. The fine must be paid within 30 days of the notice of violation and must be deposited prior to any requested hearing. A hearing, by a hearing officer, will be held only if it is requested within 30 days of the notice of violation. Evidence may be presented at the hearing. If it is determined that no violation occurred, the amount of the fine shall be refunded within 30 days. The Authority shall serve the final order on the Person subject to the notice of violation by first class, overnight or certified mail.
- (c) **Civil Action.** Violation of any provision of this Ordinance may be enforced by a civil action including an action for injunctive relief.
- (d) **Infractions and Misdemeanors.** Violation of any provision of this Ordinance shall constitute a misdemeanor punishable by a fine not to exceed \$500 for the first violation, a fine not to exceed \$750 for the second violation within one year and a fine not to exceed \$1000 for each additional violation within one year. Violation of any provision of this Ordinance may also be enforced as an infraction punishable by a fine not to exceed \$100 for the first violation, a fine not to exceed \$200 for the second violation within one year and a fine not to exceed \$500 for each additional violation within one year. There shall be a separate offense for each day on which a violation occurs.
- (e) **Authorized Representatives.** Enforcement pursuant to this Ordinance may be undertaken by the Authority through its Executive Director, counsel, or any Authority Representative. In any enforcement action, the Authority shall be entitled to recover its attorneys' fees and costs from any Person who violates this Ordinance. **Authority Representatives are authorized to conduct any inspections reasonably necessary to further the goals of this Ordinance, subject to applicable laws.**
- (f) **Phasing. Notwithstanding the foregoing inspection and enforcement authorization** ~~Enforcement of this ordinance~~ **the amendments to this ordinance adopted by Ordinance 2016-02** shall be phased on the following schedule. Prior to January 1, 2013, **the date that a type of establishment will be considered a Store, those establishments** Stores will be notified and public education and outreach activities will take place. ~~Warnings and enforcement~~ **Enforcement** actions will be

taken as needed **beginning November 1, 2017 for Stores described in Section 3(r)(4) and beginning May 1, 2018 for Stores described in Section 3(r)(5)** January 1, 2013.

SECTION 98 (Local Regulation and Opt-Out and Opt-In Provisions)

- (a) Local Regulation. Nothing in this Ordinance shall be construed to prohibit any Member Agency from enacting and enforcing ordinances and regulations regarding the distribution of Single-Use Carryout Bags and Reusable Bags, including more stringent requirements than those in this Ordinance.
- (b) Opt-Out Provision. Any Member Agency by a resolution of its governing body prior to ~~March 2, 2012 may choose to exclude its service area from this Ordinance~~ **December 9, 2016 may choose to exclude its service area from the amendments to Ordinance 2012-02 adopted by Ordinance 2016-02 on October 26, 2016.**
- (c) Opt-In Provision. Any Member Agency that chooses to exclude its service area may request of the Authority by a resolution of its governing board to be re- included in coverage of the Ordinance at any subsequent time. Such coverage under the Ordinance, however, shall not occur unless it is accepted in writing by the Enforcement Official or the Authority Board, and shall become effective only on the date specified in such written acceptance. Such acceptance shall not be unreasonably withheld or delayed.
- (d) Dispute Resolution. In the event of a dispute between the Authority and a Covered Jurisdiction regarding the implementation of this Ordinance, either party may request a meeting, in which case the Enforcement Official and the Primary Enforcement Representative for the Covered Jurisdiction (or other designee of the chief executive of the Covered Jurisdiction) shall meet to discuss implementation of the Ordinance. After such meeting, the parties may agree to enter into mediation to resolve any disputes between the parties related to implementation of the Ordinance. In addition, after meeting to seek to resolve any disputes between the parties and possible mediation, the Authority Board or the governing body of the Covered Jurisdiction, with at least 30 days public notice, may by resolution choose to exclude the service area of the Covered Jurisdiction from this Ordinance.

SECTION 40 9 (Severability)

If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4110 (Notice and Verification)

This Ordinance shall be posted at the Authority Office after its second reading by the Board for at least thirty (30) days and shall become effective thirty (30) days after the second reading.

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**November 2016
Meetings Schedule**

**Alameda County Waste Management Authority, The Energy Council, & Source Reduction and
Recycling Board**

(Meetings are held at StopWaste Offices unless otherwise noted)

SUN	MON	TUES	WED	THURS	FRI	SAT
		1	2	3	4	5
6	7	8	9	<p align="center">10</p> <p align="center">9:00 AM Programs & Administration Committee</p> <p align="center">Key Items:</p> <ol style="list-style-type: none"> Goals & Indicators Spending Authority <hr/> <p align="center">7:00 PM</p> <p align="center">Planning & Organization Committee /Recycling Board</p> <p align="center">Castro Valley Library</p> <p align="center">Key Items:</p> <ol style="list-style-type: none"> Adequate Commercial Recycling Update Five-year programmatic audit contract Goals & Indicators Board vetting process 	<p align="center">11</p> <p align="center">AGENCY HOLIDAY</p>	12
13	14	15	<p align="center">16</p> <p align="center">3:00 PM Waste Management Authority & Energy Council</p> <p align="center">Key Items:</p> <ol style="list-style-type: none"> RB appointments DROPS Grant withdrawal Priorities adoption Contract naming 	17	18	19
20	21	22	23	<p align="center">24</p> <p align="center">AGENCY HOLIDAY</p>	<p align="center">25</p> <p align="center">AGENCY HOLIDAY</p>	26
27	28	29	30			

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News > Politics

California bag ban: Voters to weigh industry's fate at the ballot box



Staff

Shoppers leave a Vacaville store with a cart filled with plastic bags. Voters in November will consider a ballot measure that seeks to repeal 2014's statewide ban on plastic grocery bags.

By **JESSICA CALEFATI** | jcalefati@bayareanewsgroup.com

PUBLISHED: September 16, 2016 at 7:03 pm | UPDATED: September 19, 2016 at 6:43 pm

SACRAMENTO — They lost in some of California's biggest cities. They lost in the state Legislature. Now out-of-state plastic bag manufacturers are taking a final shot at keeping their product in the nation's largest market, waging a high-stakes battle with environmentalists that will be decided by voters in November.

The companies have spent \$5 million to place not one but two measures on the ballot in an effort to defeat activists who have been trying to rid the state of single-use plastic grocery bags.

A no vote on Proposition 67 would repeal a 2014 California law banning the flimsy plastic grocery bags and requiring stores to charge at least 10 cents for every paper and thicker plastic bag they hand out to customers. Proposition 65 is aimed at forcing grocers to deposit those fees into a state account for environmental improvement projects if voters decide to keep the ban.

But while more money for wetlands restoration and beach cleanup surely sounds appealing, initiative and legal experts say the bag makers' Proposition 65 is simply a "poison pill" designed to confuse voters and squash a popular movement's momentum — or at least stall implementation of California's first-in-the-nation statewide bag ban a bit longer.

"When your existence as a company is at stake, you should be willing to go to all kinds of lengths to avoid extinction," said Michael Wara, a Stanford Law School professor who specializes in environmental law. "If I were a plastic bag manufacturer, I'd be using all my resources to fight this tooth and nail, too."

The four main plastic bag manufacturers that wrote checks to place Propositions 65 and 67 on the ballot either declined this news organization's request for an interview or didn't return calls. The companies are based in Texas, New Jersey and South Carolina.

A spokesman for the American Progressive Bag Alliance, the Washington, D.C.-based industry advocacy group leading the public relations campaign against the bag ban, called it "terrible policy for California and equally terrible for other states" considering similar legislation.

"The industry is fighting for its employees and their families," said spokesman Jon Berrier when asked about the impact the law would have on bag makers' bottom lines. His firm was hired by bag maker Hilex Poly, an industry leader based in South Carolina.

Hilix Poly lobbyists had successfully squashed more than a dozen other bag bans proposed by California lawmakers since 2009 before losing two years ago to Secretary of State Alex Padilla, then a Democratic state senator from Pacoima who authored the legislation the industry is now trying to repeal.

Padilla succeeded where others had failed because of a breakthrough compromise. He agreed to make \$2 million from the state's bottle-and-can recycling fund available to California businesses that wish to retool their operations and instead manufacture reusable plastic bags that meet the law's rigorous standards.

That was enough to convince one major Southern California plastic bag manufacturer to change its mind about the legislation — a move that undercut the industry's warning about job losses and helped boost support for the bill from an increasingly powerful bloc of moderate, business-friendly Democrats.

Unable to credibly argue any longer that California jobs would be at stake under a statewide bag ban, the out-of-state manufacturers sharpened their criticism of the 10-cent fee for paper and sturdy plastic bags — a provision of the law aimed at encouraging use of reusable bags — calling it a "cash grab" for grocers who get to keep the money.

Berrier cited that issue as the reason the industry pursued Proposition 65, as did Thomas Hudson, executive director of the California Taxpayer Protection Committee, who co-authored the ballot argument in favor of the measure printed in the state's official voter guide. In an interview, Hudson said he had "no contact at all with the bag industry."

BAY AREA BAG BANS



Proposition 65, which would deposit the bag fees into the new environmental kitty, would take effect only if manufacturers' loose the fight to repeal the bag ban — a provision that has raised the eyebrows of some political experts.

"I think the whole thing is a Hail Mary pass designed to confuse us," said Larry Gerston, a professor emeritus of political science at San Jose State.

Other political analysts have speculated that the companies sponsored the second initiative to divide environmental activists and grocers, who are working together to uphold the bag ban. But the two unlikely allies, initially on opposite sides of the epic 1980s fight to pass California's "bottle bill," remain united this time around.

Environmentalists seeking a yes vote on Proposition 67 say 2014's Senate Bill 270 is a way to wipe out a nasty form of litter that routinely blows out of landfills and into waterways, killing marine life and costing California \$25 million a year to collect and bury.

"Postponing implementation of this law for 18 months was frustrating at first," said Mark Murray, executive director of Californians Against Waste, the group that led the fight for the bottle bill before leading the charge for a statewide bag ban. "Now, we welcome the opportunity to have voters affirm their support for this important law and demonstrate to the industry and the nation that California is still an environmental leader."

Environmental groups from Hawaii to Oregon to Maryland are closely watching California's battle of the bags in the hopes that a California victory will jump-start political interest in bag bans back home.

"If the sixth-largest economy in the world can get by without plastic bags, it sends a message to the rest of the country that we should all move beyond them," said Stuart Coleman, Hawaii coordinator of the nonprofit Surfrider Foundation.

Political experts say there's a strong chance Californians will vote to uphold the state's bag ban because 40 percent of residents live in cities and counties that have already pulled plastic bags from checkout counters under local ordinances. And that reality may have sparked the industry's interest in advancing Proposition 65.

If the measure doesn't confuse voters enough to reject the bag ban, Murray said, Proposition 65's vague language almost guarantees that it will be tied up in court if it passes, further delaying implementation of the law.

"Paying to gather signatures for the referendum bought the industry two more years of California profits," said Thad Kousser, a political scientist at UC San Diego. "If this second initiative stalls implementation of the bag ban even further, that delay could be worth millions of dollars. They've won even if they lose."

California voters in November will weigh two measures dealing with a 2014 law aimed at ridding the state of flimsy plastic grocery bags. Both measures were placed on the ballot by the bag manufacturing industry, which is fighting to survive as a growing number of cities and states across the country move to outlaw its product.

PROPOSITION 67

What it would do: A no vote on the measure would repeal a 2014 state law banning single-use plastic grocery bags and requiring stores to charge at least 10 cents for every paper and thicker plastic bag they hand out to customers.

What supporters say: Proposition 67 would wipe out a nasty form of litter that routinely blows out of landfills and into waterways, killing marine life and costing Californians \$25 million a year to collect and bury.

What opponents say: The measure would harm an American industry, kill jobs and boost profits for grocers, who get to keep the fees they collect for paper and thicker plastic bags.

PROPOSITION 65

What would it do: The measure would force grocers to deposit the 10-cent fees they're required to collect for paper and thicker plastic bags into an account for environmental improvement projects.

What supporters say: Proposition 65 would ensure that money collected under a statewide plastic bag ban is used to finance projects that improve the environment.

What opponents say: The measure is a Hail Mary pass that was placed on the ballot by bag makers to confuse and deceive voters.

How much money is being raised? Environmentalists and grocers have collected about \$450,000 as of Friday to support a yes vote on Proposition 67 and a no vote on Proposition 65. Opponents of the bag ban, mostly out-of-state bag manufacturers, have raised more than \$5 million.

Source: California Secretary of State's Office

Tags: [California Ballot Measures](#)

Jessica Calefati

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SF's zero-waste failure littered with fines, frustration

By Heather Knight | September 24, 2016 | Updated: September 24, 2016 3:00pm

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Photo: Gabriella Angotti-Jones, The Chronicle

Piles of unsorted trash litter a commercial area near Bayshore Boulevard — with nary a garbage can of any color in sight.

At first glance, San Francisco's system of blue, green and black bins for recycling, compost and garbage seems pretty straightforward. But residents have a lot of questions and complaints when it comes to the way the city deals with its trash.

Last week, we told you the city sends a whopping 1,463 tons of garbage to the landfill every workday, an increase from recent years. In 2003, the city set the goal of creating zero waste by 2020, but it looks like the chances of that happening are about as good as the Giants' bullpen suddenly learning how to pitch.

Here are some questions and comments readers posed to Recology, San Francisco's trash collector, and the city itself about the poor job we're all doing of getting to zero waste.

If Recology wants people to recycle so badly, why does it fine them for doing too good a job?

Lori Kohler, a doctor and mom living in Bernal Heights, was surprised to find a note affixed to her blue bin the other day saying she was being fined \$5 for recycling too much. She called Recology to inquire and was told she had more than \$15 in previous fines, too.

Her crime? Having too much recycling to fit in the standard 32-gallon blue bin and leaving the extra next to it.





Photo: Gabriella Angotti-Jones, The Chronicle

A green compost container stands next to a blue recycling can near Potrero Hill. S.F. isn't even close to its zero waste target.

"If you get charged for extra trash, I understand that. But for extra recycling or extra compost?" she said. "It's completely counterproductive."

Recology told her she could pay more each month to have a 64-gallon blue bin, which she doesn't have room for in her garage. ("They said, 'We're happy to accommodate you with a larger bin.' They failed to mention accommodating us with a larger house!" she said with a laugh.)

The self-described "compulsive recycler" said that for now, she'll put the extra recycling in the black bin, which means it's headed for the landfill. "So much for their goals," she said.

Robert Reed, spokesman for Recology, said households that produce very little trash but a lot of recycling can actually reduce the standard \$35.18 monthly bill by \$9.71 by requesting a 64-gallon blue bin and a 20-gallon mini black bin.

It's up to individual garbage truck drivers to levy the fines, and they're usually very forgiving, Reed said. But overall, the charges exist for a simple reason: "The idea is by paying for what you throw away, you will think about your consumption," he said.

Why does San Francisco make it so hard to find a trash can when you're out and about, let alone anywhere to recycle or compost?

If it seems like public trash cans are harder to find than ever, that's because they are. The city has 3,235 public trash cans, down 1,700 from a decade ago. Then-Mayor **Gavin Newsom** started the can purge because he said they were being used for dumping of household waste rather than street litter.

Recology doesn't sort the waste in those trash cans, and all of it goes to landfill. (Those metal cages atop some trash cans for recycling? They're so homeless people and others can more easily remove cans and bottles.)

But it's very hard to find blue or green bins on public property other than in some parks, meaning the garbage cans are usually the only option. **Guillermo Rodriguez**, spokesman for the Department of the Environment, said the city has tested recycling and composting in public areas, but found "it is challenging expensive and does not effectively work." They're often used for dumping, and the contents get mixed up.

Has the city or Recology conducted studies to determine which San Franciscans in particular aren't doing a good job recycling or composting?

In a word? No. **Michael Murphy**, a San Jose consultant who helps companies become more green, said that's a mistake. He pointed to an effort to reduce litter on Texas highways. A study found that boys and men ages 15 to 40 were the main culprits, and a public awareness campaign with the tough-guy slogan "Don't Mess With Texas" worked well.

"Putting a sticker on a trash can and sending a flyer with the bill just isn't going to cut it," Murphy said.

To be fair, San Francisco does do culturally sensitive outreach to the Chinese community, translates its materials in a variety of languages and conducts kid-specific outreach in schools. Still, that's nothing on "Don't Mess With Texas."

MORE BY HEATHER KNIGHT



SF not as green as it thinks on garbage



SF Ethics Commission staying out of war of words over soda tax

Why should I bother separating my trash into three bins when homeless people and other scavengers come digging through it anyway?

Reed said recycling theft is an issue in many cities, but that the vast majority of bins Recology empties in San Francisco "are not poached." Even if the cans and bottles are plucked out, it's still worth having the paper, cardboard and food waste in the correct spots, Reed said.

If people are really worried about it, they can pay extra to keep locks on their bins or have Recology's garbage collectors remove the bins from their garages or side yards rather than the sidewalk.

Gee, it's no wonder more garbage is being produced, because so many recycling centers around the city — including the controversial one in Golden Gate Park run by the Haight-Ashbury Neighborhood Council — have been shuttered.

Calvin Welch, a member of the neighborhood council board, said that at its peak, the Golden Gate Park site was diverting 900 tons a month from the landfill. But the facility was closed by the city in 2013 because it was viewed as a noisy homeless attraction. Various recycling centers in Safeway parking lots also have closed.

Rodriguez said there are no data to support the closure of the recycling centers having a big impact on the waste stream. Still, the city is trying to lobby Sacramento to change state law that governs recycling centers. Currently, the centers must be open at one physical location six days a week for a total of 40 hours. San Francisco wants to test a program of mobile recycling centers, including "reverse vending machines" in which someone puts in a bottle or can and gets change in return.

Can a city with so many pet owners ever get to zero waste? The kitty litter and dog poop has to go somewhere.

Yes, all of that lovely material goes to the landfill, but there's scientific hope on the horizon. Reed says there is a demonstration project at Yale to use dog droppings to power streetlights.

Also, the company BioBag, which sells compostable bags, has partnered with the compostable diaper service EarthBaby to set up a doggie poop collection site at the open space at 23rd and Carolina streets on Potrero Hill.

The idea is to collect all that canine waste and turn it into organic plant food — eventually expanding to keep 32 million pounds of poop out of the San Francisco landfill each year.

On that note, enjoy your breakfast!

Heather Knight is a San Francisco Chronicle staff writer who covers City Hall politics. Email: hknight@sfchronicle.com Twitter: [@hknightsf](https://twitter.com/hknightsf)



Heather Knight
City Hall Reporter