



Contra
Costa
County

To: Board of Supervisors
From: LEGISLATION COMMITTEE
Date: August 2, 2016

Subject: Proposition 67 Referendum to Overturn Ban on Single-Use Plastic Bags

RECOMMENDATION(S):

CONSIDER adopting an Support position on Proposition 67: Referendum to Overturn Ban on Single-Use Plastic Bags, which would be a position in favor of upholding or ratifying SB 270, the contested legislation banning single-use plastic bags, as recommended by the Legislation Committee.

FISCAL IMPACT:

No direct impact to the County from adopting a position on the initiative.

BACKGROUND:

The California Plastic Bag Ban Referendum will be on the November 8, 2016, ballot in California as a veto referendum. Summary: A majority of "no" votes on the referendum would **repeal** SB 270 (Chapter 850, Statutes of 2014), which prohibited certain stores from distributing lightweight, single-use plastic bags. SB 270 established requirements for reusable bags and prohibited stores from distributing reusable bags and recycled paper bags for less than \$0.10 per bag. A "yes" vote on Proposition 67 **is a vote in favor of upholding or ratifying the contested legislation banning plastic bags.**

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **08/02/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 2, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: L. DeLaney,
925-335-1097

cc:

BACKGROUND: (CONT'D)

Background

Local ordinances

In 2007, San Francisco became the first jurisdiction in California to ban single-use plastic bags. Since then, 108 ordinances banning single-use plastic bags have been approved in the state, covering 137 county or local jurisdictions. Los Angeles, the largest city in California and second largest in the United States, banned single-use plastic bags and placed a 10 cent charge on paper bags. The city's ordinance went into effect on January 1, 2014, for large businesses and on July 1, 2014, for small businesses.

There were initiative attempts to overturn local single-use plastic bag bans in Walnut Creek, Huntington Creek and Campbell, California. All were unsuccessful in their signature drives. In January 2015, however, Huntington Beach's city council voted to repeal the city's bag ban. Councilman Mike Posey, who proposed the repeal, said repealing the ban was about "personal freedom and personal responsibility."

On September 30, 2014, Senate Bill 270 was signed into law by Governor Brown. The law prohibits specified stores from providing a single-use carryout bag to a customer and requires such stores to meet other requirements regarding providing recycled paper bags and compostable bags. The law requires a bag fee and creates a related fund and requires bags sold or provided to a store by a reusable grocery bag producer to meet specified requirements.

If the measure is approved by the state's voters, it would:

- Ratify Senate Bill 270 (2014).
- Prohibit large grocery stores and pharmacies from providing plastic single-use carryout bags and ban small grocery stores, convenience stores and liquor stores from doing so the following year.
- Allow single-use plastic bags for meat, bread, produce, bulk food and perishable items.
- Mandate stores to charge 10 cents for recycled, compostable and reusable grocery bags.
- Exempt consumers using a payment card or voucher issued by the California Special Supplemental Food Program from being charged for bags.
- Provide \$2 million to state plastic bag manufacturers for the purpose of helping them retain jobs and transition to making thicker, multi-use, recycled plastic bags.

Supporters of the plastic bag ban argue that the campaign fighting the ban is funded by out-of-state plastic companies who aren't invested in protecting California's environment. They say the ban will help protect the environment without hurting low-income consumers or decreasing job creation.

Critics of California's plastic bag ban primarily argue that the ban infringes on the rights of certain groups, is illustrative of government waste, and is the product of unions and other special interests.

Pollution. Although plastic represents a relatively small fraction of the overall waste stream in California, plastic waste is the predominate form of marine debris. Plastics are estimated to comprise 60% to 80% of all marine debris and 90% of all floating debris. According to the California Coastal Commission, the primary source of marine debris is urban runoff, of which lightweight plastic bags and plastic film are particularly susceptible. According to the Department of Resources, Recycling and Recovery (Cal Recycle), a large amount of this plastic is accumulating in waterways and landscapes around the world, including the Pacific Ocean's Gyre (also known as the Great Pacific Garbage Patch). In addition, cities and counties are responsible for reducing storm water pollution to the Maximum Extent Practicable (MEP) and eliminate discharge through a National Pollutant Discharge Elimination System (NPDES). Part of this includes removing trash, including plastic from our storm drains and gutters. Storm water permits are costly and because of Proposition 218, local governments are unable to raise their fees without a vote of the people.

Legislative Efforts. SB 270, by Senators Padilla, de León and Lara, was adopted by the Legislature and signed by the Governor in 2014. This bill established a statewide ban on the distribution of single-use plastic grocery bags at most stores. It was passed after several years of efforts, including numerous other legislative attempts and was ultimately supported by environmental groups, grocers, retailers, various local governments and labor. CSAC did not ultimately take a position on SB 270 due to amendments that directed the fee placed on reusable bags to remain with retail establishments rather than dedicated to environmental programs. CSAC did support previous bag ban bills, including AB 2829 (Davis, 2008), AB 68 (Brownley, 2009), AB 87 (Davis, 2009) & AB 158 (Levine, 2013-14). These previous legislative attempts to ban plastic bags would have dedicated proceeds from the sale of reusable bags for environmental mitigation purposes. SB 270 does preempt local governments from passing an ordinance that differs from the statewide ban, while grandfathering in existing ordinances passed prior to September 2014. There currently are over 140 local city and county ordinances banning single-use carry out bags in California.

Proposition 26. In November 2010, California voters passed Proposition 26 (Prop 26). Prop 26 redefines regulatory fees as taxes. This means that new regulatory fees must now be treated like taxes and must be approved by a legislative supermajority (at the state level) and a voter supermajority for local measures. In response to Prop 26, local governments have begun to restructure their local bag ordinances by having the proceeds from the charge on paper or reusable bags go to the retailer instead of the government. CSAC supported previous legislative attempts to ban plastic bags before the issue of Prop 26 required either a supermajority vote or proceeds of sales to remain with the retailer.

Specifically, SB 270 does the following:

- Prohibits stores from making single-use carryout bags available at the point of sale on the following timeline: On and after January 1, 2015, at either a grocery store or retailer with at least 10,000 square feet of retail space and a pharmacy.
- On and after July 1, 2016, at a convenience food store and food mart.
- Authorizes a store to make available a reusable grocery bag or recycled paper bag at the point of sale.
- Requires that these bags may not be sold to a consumer for less than \$0.10.
- Requires that all monies collected by stores pursuant to this bill be retained at the store and be used for costs associated with complying with this bill; actual costs of providing recycled paper bags and reusable grocery bags; and costs associated with a store's educational materials or educational campaign encouraging the use of reusable bags.
- Requires a store to provide a reusable bag or recycled paper bag at no charge to any customer using California Special Supplemental Food Program for Women, Infants and Children benefits, CalFresh benefits (federally known as Supplemental Nutrition Assistance Program [SNAP] benefits), California Food Assistance Program benefits, or cash aid benefits.
- Authorizes a city, county, city and county, or the state to impose civil liability of \$1,000 for the first violation of the proposed law, \$2,000 for the second violation, and \$5,000 for each subsequent violation. Collected penalties must be paid to whichever agency brought the action.
- Grandfathers in all local ordinances adopted before September 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags.
- Preempts local ordinances adopted on or after September 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags.
- Appropriated \$2 million from the Recycled Market Development Revolving Loan Subaccount for loans for the creation and retention of jobs and economic activity in the state for the manufacture and recycling of plastic reusable grocery bags that use recycled content.
- Required recipients of a loan to retain and retrain existing employees for the manufacturing of reusable grocery bags that meet the requirements of this bill.

SB 270 does grandfather in local ordinances prior to September 2014.

While CSAC supported previous attempts to ban plastic bags, they do not have specific policy related to the direction of the fee on reusable bags.

Support. The following organizations are the main proponents of upholding the ban on plastic bags:

California League of Conservation Voters (CLCV)

Californians Against Waste (CAW)
Environment California
Heal the Bay
Natural Resources Defense Council (NRDC)
Sierra Club California
Surfrider Foundation

Opposition. The American Progressive Bag Alliance, an opponent of the measure, is leading the campaign to repeal SB 270. Other organizations in opposition include the Howard Jarvis Taxpayers Association and the California Manufacturer's and Technology Association.

CONSEQUENCE OF NEGATIVE ACTION:

There would be no record of the County's position for the ballot initiative.

ATTACHMENTS

Attachment A: Proposition 67: Referendum of SB 270