



SBWMA SPECIAL LEGISLATIVE COMMITTEE MEETING

Friday, June 25, 2021, at 2:00 p.m.

VIA ZOOM VIDEO OR TELECONFERENCE MEETING ONLY

Link to Join

[https://us02web.zoom.us/meeting/tZYvcu6vrj8rE9LX8mOWyl7G_OALbYVebItX/ics?icsToken=98tyKuGqrD4tHdSRsRCBRpwQAI_4KO3ziClcj_pxpEfoLBdKblTRC1jHrBGJt3S](https://us02web.zoom.us/join/https://us02web.zoom.us/meeting/tZYvcu6vrj8rE9LX8mOWyl7G_OALbYVebItX/ics?icsToken=98tyKuGqrD4tHdSRsRCBRpwQAI_4KO3ziClcj_pxpEfoLBdKblTRC1jHrBGJt3S)

Phone number for voice access: 1 (669) 900 9128

Meeting ID: 822 5770 4196

Passcode: 121755

PURSUANT TO GOVERNOR NEWSOM'S EXECUTIVE ORDER N-29-20, THE MEETING WILL BE HELD BY TELECONFERENCE AND/OR VIDEO CONFERENCE ONLY. THE PUBLIC MAY PARTICIPATE BY JOINING THE ZOOM MEETING

[https://us02web.zoom.us/meeting/tZYvcu6vrj8rE9LX8mOWyl7G_OALbYVebItX/ics?icsToken=98tyKuGqrD4tHdSRsRCBRpwQAI_4KO3ziClcj_pxpEfoLBdKblTRC1jHrBGJt3S](https://us02web.zoom.us/join/https://us02web.zoom.us/meeting/tZYvcu6vrj8rE9LX8mOWyl7G_OALbYVebItX/ics?icsToken=98tyKuGqrD4tHdSRsRCBRpwQAI_4KO3ziClcj_pxpEfoLBdKblTRC1jHrBGJt3S)

AND SUBMITTING THEIR PUBLIC COMMENTS IN A LIVE MEETING FORMAT. ANY EMAILS SENT TO rethinker@rethinkwaste.org WILL BE PROVIDED TO THE LEGISLATIVE COMMITTEE MEMBERS PRIOR TO THE MEETING.

Live verbal public comments may be made by members of the public joining the meeting via Zoom. Zoom access information is provided above. Use the "raise hand" feature (for those joining by phone, press *9 to "raise hand") during the public comment period for the agenda item you wish to address. The CHAIR will call on people to speak by name provided or last 4 digits of phone number for dial-in attendees. Please clearly state your full name for the record at the start of your public comment

Written public comments for the record may be submitted in advance by 12:00 p.m. on the meeting date by email to: rethinker@rethinkwaste.org and will be made part of the written record but will not be read verbally at the meeting. Written public comments submitted by email should adhere to the following: 1) Clearly indicate the Agenda Item No. or specify "Public" in the Subject Line for items not on the agenda and 2) Include the submitter's full name

TELECONFERENCE PARTICIPANTS

ALL LEGISLATIVE COMMITTEE MEMBERS WILL PARTICIPATE BY TELECONFERENCE AND/OR VIDEO CONFERENCE PURSUANT TO GOVERNOR NEWSOM'S EXECUTIVE ORDER N-25-20

PURSUANT TO RALPH M. BROWN ACT, GOVERNMENT CODE SECTION 54953, ALL VOTES SHALL BE BY ROLL CALL DUE TO ALL LEGISLATIVE COMMITTEE MEMBERS PARTICIPATING BY TELECONFERENCE AND/OR VIDEO CONFERENCE

ANY REQUEST FOR REASONABLE ACCOMMODATION SHOULD BE ADDRESSED TO CYNDI URMAN AT CURMAN@RETHINKWASTE.ORG.

AGENDA

1. Call to Order/Roll Call

2. Public Comment

Persons wishing to address the Committee on matters NOT on the posted agenda may do so. Each speaker is limited to three minutes. If there are more than five individuals wishing to speak during public comment, the Chairman will draw five speaker cards from those submitted to speak during this time. The balance of the Public Comment speakers will be called upon at the end of the Committee Meeting. If the item you are speaking on is not listed on the agenda, please be advised that the Committee may briefly respond to statements made or questions posed as allowed under The Brown Act (Government Code Section 54954.2). The Committee's general policy is to refer items to staff for attention, or have a matter placed on a future Committee agenda for a more comprehensive action or report and formal public discussion and input at that

3. Executive Director's Report (*Verbal Report*)

p.3

MEMBER AGENCIES

BELMONT * BURLINGAME * EAST PALO ALTO * FOSTER CITY * HILLSBOROUGH * MENLO PARK * REDWOOD CITY
* SAN CARLOS * SAN MATEO * COUNTY OF SAN MATEO * WEST BAY SANITARY DISTRICT

June 18, 2021

4. Approval of Consent Calendar

Consent Calendar item(s) are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the Committee, staff or public request specific items be removed for separate action. *Items removed from the Consent Calendar will be moved to the end of the agenda for separate discussion.*

- A. Approval of the Minutes from the April 23, 2021 Legislative Committee Meeting **ACTION p. 7**
- B. Approval of 2021 Legislative Committee Meeting Calendar **ACTION p. 11**

5. Old Business: Discussion to Publicly Endorse the California Recycling and Plastic Pollution Reduction Act p 15

6. Legislative Updates from Environmental and Energy Consulting (EEC) and Committee Discussion p. 31

- Recap of SB 289 and Future Planning
- Discussion of Bottle Bill and CRV Redemption Centers

7. Follow up on Action Items from the previous Legislative Committee Meeting p. 41

8. Legislative Committee Member Comments

9. Adjourn

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June 18, 2021



EXECUTIVE DIRECTOR'S UPDATE

Agenda Item 3 is a Verbal Report Only at the
6/25/2021 SBWMA Legislative Committee Meeting



A Public Agency

CONSENT CALENDAR

DRAFT MINUTES

**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE LEGISLATIVE COMMITTEE**

April 23, 2021 2:00PM

Via Zoom Tele or Video Conference

Call To Order: 2:03PM

1. Roll Call

Member	Present	Absent
Fran Dehn, West Bay Sanitary District	X	
Carole Groom, County of San Mateo		X
Adam Rak, San Carlos	X	

SBWMA Staff Members Present: Joe La Mariana, Julia Au, Joanna Rosales

Others Present: Reed Addis and Kayla Robinson, Environmental and Energy Consulting

2. Public Comment

Pursuant to Government Code Section 54954.3(a), members of the public wishing to address the Committee may do so, and the comments shall be limited to the Special Meeting notice topic(s). Speakers may join the Zoom meeting via the meeting link and using the “raise hand” feature and the Clerk of the Board will call on people.

None

3. Executive Director’s Welcome

Executive Director La Mariana welcomed everyone to the first meeting and made the following announcements:

Comments about the BOD/TAC Retreat the day prior.

Organics-to-Energy pilot started operating this week.

Had conversation with Board Member Davina Hurt about her appointment to CARB and how her voice in Sacramento may be favorable for the SBWMA’s needs .

Member Dehn commented that she felt the retreat was great and the format was great because everyone was on the same playing field/level.

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A. Approval of 2021 Legislative Committee Meeting Calendar

Goal is to meet monthly for an hour. Member Rak and Member Dehn were OK with Fridays as a meeting date, but wanted to make sure that the date/time work with Member Groom Groom before proceeding.

No Action taken

5. Election of a Legislative Committee Chair

- Background: Michael Brownrigg in the Zero Waste Committee, helps us execute the meetings, takes full ownership as Chair
- Member Rak mentioning if the group gets larger maybe that's when we establish a Chair.
- Joe said it would be nice for a chair to have that BOD interaction.
- Member Dehn not sure if it's needed with just 3 people in the committee.
- Could contemplate and come back at the next meeting with Member Groom's input.

6. Discussion on Legislative Committee Structure and Goals of Committee

- What kind of discussions do we want to have in this committee?
- Member Dehn question: Are there notes recorded for any of the committees? She felt that summaries of meetings are important for this committee
- Member Rak also serves on C/CAG legislative committee, they have monthly meetings and also have a separate lobbyist. C/CAG tends to present a living document with a list of bills being tracked and whether they've taken a position on it and they review that living document every month
- Other Board Members can bring any recommendations to the committee and the committee can decide on the recommended action.
- Use the meeting time to meet with some of the legislators.
- At each meeting have a summary and where we are relative to support and what bills we are watching
- Member Dehn would like to see in the next packet a who's who - who are we working with, who are we formally funding vs using informally, our partnerships (Staff agreed to work on for next meeting)
- Legislative update which is already in the Board packet should be reviewed by this committee first.
- If there are time sensitive things, pull those out and highlight them ahead of everything else.

7. Discussion to Publicly Endorse the California Recycling and Plastic Pollution Reduction Act

- Ballot initiative, funded by Recology
- It will most likely be on the Fall of 2022 ballot
- About reducing/banning single use plastic and packaging
- Member Dehn is in support, but is wondering where that 1 cent charge is going. Negative connotation on CRV so what kind of plastic does the bill address?
- Member Rak: at some point will the plastics industry argue that we're going to ban all plastics. Is it to ban all plastic? Who defines the market?
- Kayla Robinson the measure requires producers to ensure that their products are compostable, recyclable, or reusable by 2030. Requires reduction in plastic use by 25%, and targets single use plastic packaging and single use plastic foodware.

- Reed Addis addressed the fee side. It is at the manufacturer side, not like bottle bill. Granted, it'll probably filter downstream, but it is an upstream cost.
- Timing:
 - If it's a private initiative, CA law says they can't do it on a primary election.
 - Member Rak: We don't have to decide on this today and would like to get Member Groom's opinion. After next meeting, bring it up to BOD.
- Joe on Statewide legislation team for SWANA
 - Could ask Christina Wolfe to a legislative meeting to answer questions.
- Member Rak would like to have Josh Becker or Kevin Mullin - would want to hear their perspectives at a future legislative committee meeting.

8. Legislative Updates from Environmental and Energy Consulting (EEC) and Committee Discussion

- Kayla Robinson and Reed Addis have a set of goals: and wanted to share with the committee how complicated the process is.
- Power mapping - if you have connections to 'be deployed' to do outreach.
- 2 technical questions: will reed know if there's someone here from the public. Through a public records request, people can watch the recordings.
 - As protocol, if someone from the public is here, can everyone in the room be informed.
- Just started the first year of two-year legislative sessions so if one law doesn't survive, there's a chance it could come back
- 3 items to bring to committee's attention:
- Reed
 - SB1383
 - Senator Laird has a bill SB 619 that is pushing for modifications, changes, delays to how 1383 should be implemented.
 - EEC putting together something about that for this committee to review.
 - Ramping up right now for getting budget passed.
 - The Governor puts out projected budget in Jan tax receipts in April, Gov comes in with adjusted budget called May Revisions.
 - There will be surplus dollars available, and legislature is contemplating funding one-time projects.
 - A lot of their work has been signaled by Senate for funding for projects that could fund environmental infrastructure.
 - Bond
 - There is the possibility that a bond could be passed by legislature and then go to voters - either June of next year or Nov 2022.
 - EEC is trying to get in every revenue stream for RethinkWaste.
- Kayla
 - SB 289 - sponsored by RethinkWaste, California Product Stewardship Council and Californians Against Waste. It would create a collection program for batteries and embedded batteries at retailers. Goal of this bill is to get li-ion batteries out of the waste stream. Bill passed out of Senate Environmental Quality Committee. There will be a hearing Tuesday, April 27 in Senate Judiciary where Joe will give testimony. Feeling heavy opposition from retailers, battery producers, Cal-chamber. Hurdle will be passing out of Senate appropriations committee.
- Reed
 - Senator Portentino from Pasadena/Burbank is the chair of Appropriations committee.
 - Part of the goal is to get to Sen Portentino - if anyone in our networks have connections w/ Sen. Portentino they could use help in making that connection.

- League of Cities and CSAC are both in support of this bill.
- Member Rak asked if we have any indication on where Sen Portentino is on this issue. Reed Addis answered that it is too early to tell. They've had a recent fire in their facilities so there must be constituents

9. Legislative Committee Member Comments

- Member Rak: Glad we have this going, necessary step for our Agency.
- Member Dehn: Make certain that a Friday afternoon is a preferable time for Member Groom

10. Adjourn at 3:04pm



STAFF REPORT

To: SBWMA Legislative Committee Members
From: Julia Au, Sr. Outreach, Education and Compliance Manager
Date: June 25, 2021 Special Legislative Committee Meeting
Subject: Approval of 2021 Legislative Committee Meeting Calendar

Recommendation

It is recommended that the SBWMA Legislative Committee approve a 2021 Legislative Committee regular meeting calendar.

Summary

The SBWMA Legislative Committee is a standing committee of the SBWMA. As such, the committee is required to follow Brown Act regulations, and have a posted schedule of regular meetings. It is recommended that the SBWMA Legislative Committee adopt a calendar with monthly regular meetings per year beginning in 2021. Each month the Committee will discuss current, upcoming and pending legislation and/or regulations and other appropriate legislative discussions.

Staff recommends meeting on the fourth Fridays of the month at 2PM for one hour.

Fiscal Impact

There is no fiscal impact associated with approving a regular meeting calendar for 2021. Should meetings resume in person there is a small fee of \$65 per meeting charged to the use the San Carlos library meeting room.

Attachments:

Attachment A – 2021 Legislative Committee Draft Meeting Calendar



**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
2021 Legislative Committee MEETING SCHEDULE**

Meetings of the South Bayside Waste Management Authority Legislative Committee are held
 via Zoom Tele or Video Conference or
 in the SBWMA Offices at 610 Elm Street Suite 202 San Carlos, CA or
 at the San Carlos Library 2nd floor conference room at 610 Elm Street Room A/B San Carlos, CA
 Please refer to each agenda for exact location information.

Meetings are held on the fourth Fridays of the month from 2:00 pm to 3:00 pm starting in May 2021 unless
 otherwise noted.

June	25	2021
July	DARK (Recess)	2021
August	27	2021
September	24	2021
October	22	2021
November	TBD due to Thanksgiving	2021
December	DARK	2021



A Public Agency

OLD BUSINESS:

Discussion to Publicly Endorse the
California Recycling and Plastic
Pollution Reduction Act

Agenda Item 5

Old Business: Discussion to Publicly Endorse the California Recycling and Plastic Pollution Reduction Act

No Staff Report Discussion on the attachment at the June 25, 2021 Legislative Committee Meeting

At the April 23, 2021 SBWMA Legislative Committee Meeting, the committee discussed recommending support of the ballot measure: The California Recycling and Plastic Pollution Reduction Act to the Board. Not all committee members were able to attend this meeting, so the committee asked staff to bring the item back to the committee for discussion at a future meeting. The following attachments include information about the California Recycling and Plastic Pollution Reduction Act

Attachments:

Attachment A – Plastics Free California Summary of the California Recycling and Plastic Pollution Reduction Act

Attachment B – Information on Ballot Measures and Public Agencies - general guidelines and analyses of pertinent issues associated with the use of public resources and ballot measure activities.



THE CALIFORNIA RECYCLING AND PLASTIC POLLUTION REDUCTION ACT

It is time for Californians to take action! **Global plastic production is approaching one million tons per day, negatively impacting our climate, beginning with the extraction of fossil fuels. It also harms our communities and ecosystems, with waste mismanagement resulting in plastic waste accumulating in our cities and streets and resulting in more than 8 million tons of plastic waste winding up in our oceans every year.** After two years of attempting to pass a comprehensive solution to this problem through the state legislature, we're putting this in the hands of the public and asking for your support. A ballot initiative known as **The California Recycling and Plastic Pollution Reduction Act** (or **Plastics Free California**), aims to reduce the impact of plastic pollution on the state's lands, waters, and communities.

The initiative was filed on December 9, 2019 and approved by the Attorney General's office on January 8, 2020. **On August 11, 2020 supporters of the initiative submitted more than 870,000 voter signatures to qualify for the ballot** (over 246,788 more than the number of signatures required!). We anticipate an **announcement of qualification in Spring 2021 for the next general election ballot.**

What Would The Act Accomplish?

If approved by voters, this Act would significantly advance California's waste reduction goals by focusing on reducing the plastic packaging and foodware items that are only used once and routinely disposed of (i.e. single-use plastics). It would accomplish two things:

Give the state department, CalRecycle, the authority to adopt regulations to reduce production and use of single-use plastic packaging and foodware.

Regulations would:

- Require producers to transition to reusable, recyclable, or compostable single-use packaging and foodware by 2030
- Require producers to reduce the amount of single-use packaging and foodware generated by no less than 25% by 2030, relative to a 2023 state-wide baseline
- Require producers to reduce or eliminate products and packaging deemed unnecessary
- Establish guidelines defining reusable, recyclable and compostable and use of recycled content and renewable materials
- Standardize labeling and marketing of plastic items to increase likelihood of their proper sorting and eventual reuse
- Ban the use of expanded polystyrene (commonly known as "Styrofoam") by food vendors statewide
- Improve consumer access to recycling programs

Establish a fee on plastic producers of up to 1¢ per item, to generate funds for programs and activities intended to reduce waste, increase recycling and restore the environment. Funds will also be dedicated to mitigate impacts of plastic pollution on low income and disadvantaged communities who historically bear the brunt of environmental degradation. Supported programs and activities would include:

- Protection and clean-up of streams, rivers, beaches and coastal waters from plastic pollution
- Local government trash clean-up and mitigation efforts
- Maintaining and expanding recycling and composting infrastructure
- Farming and ranching practices that increase carbon sequestration, reduce greenhouse gas emissions, and improve water quality, soil health, and climate resilience in agriculture
- Preventing food waste and recovering edible food for human consumption
- Creating, improving, and sustaining markets for recyclable and compostable products including plastic, glass, paper, and organic waste
- Deploying reusable and refillable systems as alternatives to single-use plastic products
- Education and outreach to residents and businesses on waste reduction, recycling, and composting
- Grant programs to support litter abatement, public education, community recycling and composting infrastructure, and reduce reliance on single-use packaging

Who Is Supporting The Act?



Since being filed by Recology, a progressive waste collection company, **the initiative has gained broad support from a wide range of stakeholders** from environmental advocates, to businesses, local governments, and farmers.

“From production to disposal, plastic pollution negatively impacts communities across the state and affects low-income communities and communities of color the most. By demanding producer accountability, fighting for environmental justice, and passing this ballot initiative, we can protect Californians for generations to come. This is the necessary step forward to protect our families and communities as well as the fragile ecosystems threatened by plastic pollution in the oceans, rivers, and land that we all depend on”

—LINDA ESCALANTE, Commissioner, California Coastal Commission

“The Plastics Free California Ballot Initiative is the most comprehensive and holistic policy approach to these issues we have seen worldwide, and will help California address plastic packaging waste while also building soil, supporting ocean clean-up, and investing in community health. Treat the Earth Like Home! All-One!”

—DAVID BRONNER, Cosmic Engagement Officer, Dr. Bronner’s

“Californians are no longer willing to stand by as plastics choke our state waterways and lands and threaten our wildlife and our own health. This initiative outlines a bold vision for California to demonstrably reduce its plastic waste. We must also build solutions that ensure equitable resource allocation to those people, communities, and environments disproportionately impacted by plastics. In the wake of this mounting environmental crisis, it’s time for California to make tangible progress by tackling plastics at the source.”

—MIKE SWEENEY, Executive Director, The Nature Conservancy

How Can You Be a Part of This Solution?

1. PUBLICLY ENDORSE

- You can commit now to turning the tide on the plastic pollution crisis. Express your support by publicly endorsing this initiative. Please complete the following form:
<https://forms.gle/axJvBoyHjL2kHqYe9>

2. PLEDGE FINANCIAL SUPPORT

- We anticipate that the plastics will easily raise \$50 million to fight this effort. However, we have the will of people, wide networks, the power of social media, and word of mouth. Our goal is to raise \$20 million to support this initiative over the next two years. Initially we are seeking \$4.5 million in pledged support. Donors will only be asked to fulfill their pledge if this target is met. Recology has pledged \$1 million to start, and another \$500 thousand has been raised to date. We are still seeking another \$3 million of pledged support to kick off the campaign.
- If you are interested in making a pledge or sharing ideas for potential donors, please contact **Calla Rose Ostrander** at callarose@gmail.com. To make an individual donation directly to the campaign, please visit our website <https://plasticsfreeca.org/>

3. PROVIDE CAMPAIGN SUPPORT

- Efforts are ongoing to gather widespread support for this important initiative. To stand up against very well-resourced and influential plastics and oil industries, we must bolster engagement from communities across California, environmental and environmental justice organizations, local governments, businesses, labor groups, and the public health sector. Join us in the fight to end plastic pollution!
- If you would like to be involved with the campaign strategy implementation or have any questions, please contact **Baani Behniwal** at baani@cawrecycles.org.

PROSPECT OF INITIATIVE SUCCESS

Californians are motivated and ready to tackle plastic pollution, and we are optimistic about our ability to get this initiative passed.

- A [2019 survey](#) by the nonpartisan Public Policy Institute of California found that **72% of Californians feel that plastic and trash along our coast is a “big problem.”**
- Statewide polling indicates that **Californians are overwhelmingly supportive (more than 6 in 10 voters) of this ballot initiative**
- Statewide polling indicates that this **initiative has a strong chance of withstanding heavy spending by an opposition campaign, even on a 10 to 1 ratio.**



Ballot Measures and Public Agencies

The California Constitution reserves to the people the right to make some important local policy decisions through the initiative and referendum process.¹ Determining what role local agencies and their officials may play in the initiative and referendum process can be somewhat complicated, but less so if one keeps in mind the basic concept that public funds may not be used to put government's "thumb on the scale" in trying to influence voters one way or the other.

The following series of questions and answers provide general guidelines and analyses of pertinent issues associated with the use of public resources and ballot measure activities. The purpose of this paper is to provide guidance that represents the Institute's best judgment, based on the law, on how to avoid stepping over the line that divides lawful from unlawful conduct. As a general matter, the Institute believes in not treading too close to any such lines, but instead giving them fairly wide berth.

It is also important to remember that just because a given course of action may be lawful, does not mean it will satisfy the public's or the agency's ideas of what constitutes an appropriate use of public resources. Proper stewardship of public resources is a key accountability issue for public officials. In determining proper use of public resources, it is important to remember the law creates only minimum legal standards. The public may view what is "right" as a much higher standard than what is "legal." In addition, there almost always are potential political implications of walking too close to the line in terms of the public's overall reaction to a ballot measure and where the public's attention should be focused.

This guide is offered for general information only and is not intended as legal advice. Reasonable attorneys can and do disagree on where the boundaries are on these issues; moreover, the specific facts of the situation are an important element of the analysis. Always consult an attorney knowledgeable about this area of the law when analyzing what to do in specific situations.

¹Cal. Const. Art. II, §§ 8-11

General Framework

1. Our agency is interested in a measure that is appearing on an upcoming ballot. We have information that may be helpful to the public in making its decision on how to vote. What do we need to keep in mind as we consider sharing that information with the public?

Public agencies play an important and ongoing, **but impartial**, role in contributing to the public's information on important issues affecting the community. The flow of factual, unbiased information back and forth between public agencies and constituents as well as among constituents, is vital to effective decision-making.

Both statutes and case law define the legal parameters of what public agencies may and may not do to communicate their views on ballot measures with public resources. "Public resources" include not only money, but things paid for with public money, including staff time, agency facilities, materials and equipment and agency communications channels.²

All state and local officials, including appointees, are prohibited from using public funds for campaign purposes, such as supporting or opposing a ballot measure. However, courts, most notably in the case of *Stanson v. Mott*, have clarified there is a difference between a public agency's lawful impartial informational activity and unlawful partisan advocacy for or against a ballot measure. While public agencies may provide accurate, factual and impartial information to the public about a ballot measure, they may **not** expressly advocate for a "Yes" or "No" vote on the measure, or disseminate information in a manner, style, tenor or tone that urges a particular vote.

Local public agency governing bodies **may** take a position at public meetings in favor of or against a particular measure that would affect the agency or its constituents.³ And public agencies may spend money to encourage constituents to register to vote, and to get out to vote.⁴

- It is worth noting that there are additional campaign-related restrictions and transparency requirements that have been adopted by the Fair Political Practices Commission pursuant to the state's Political Reform Act, such as a restriction on using public resources to mail advocacy to voters⁵ and transparency requirements intended to ensure that the public has a right to know who is spending what to influence their votes.⁶ The best way for an agency to avoid running afoul of the FPPC regulations is to refrain from any communication that could reasonably be construed as advocacy. Since public agencies cannot spend public funds for illegal advocacy purposes there should be no reason for public agencies to be reporting campaign expenditures.

² See *Stanson v. Mott*, 17 Cal. 3d 206, 210-11(1976) (referring to expenditure of staff "time and state resources" to promote passage of bond act); *Vargas v. City of Salinas*, 46 Cal. 4th 1, 31-32 (2009). See also *People v. Battin*, 77 Cal. App. 3d 635, 650 (4th Dist. 1978) (county supervisor's diversion of county staff time for improper political purposes constituted criminal misuse of public monies under Penal Code section 424), *cert. denied*, 439 U.S. 862 (1978), *superseded on other grounds by People v. Conner*, 34 Cal. 3d 141 (1983). *But see Bardolph v. Arnold*, 435 S.E. 2d 109, 113 (N.C. App 1993) (local government may expend public funds to create support for qualified ballot measure), *rev. denied*, 439 S.E.2d 141 (1993).

³ See 2 Cal. Code Regs. § 18420.1 (defining campaign-related expenditures as either reportable independent expenditures or contributions).

⁴ See 2 Cal. Code Regs. § 18901.1 (prohibiting campaign mailings sent at public expense).

⁵ *League of Women Voters v. Countywide Criminal Justice Coordination Comm.*, (1988), 203 Cal.App.3d 529, 555.

⁶ *Schroeder v. City Council of Irvine*, (2002) 97 Cal.App.4th 174, 187.

Agencies should also be aware that there are restrictions on sending mass mailings at public expense that mention or feature an elected official, even if they are non-campaign related. For example, mass mailings at public expense are strictly limited from elected officials who are also candidates for 60 days preceding an election.⁷

In light of the complexity in this area, it is essential to be in close contact with agency counsel regarding agency activities relating to ballot measures.

2. What is the underlying theory for restricting public agency activities with respect to ballot measure advocacy? Aren't public information efforts relating to what's best for the community a core function for local agencies?

Public information is one thing; advocacy is another. The reason courts have given for restricting public agency activities with respect to ballot measures is that the use of taxpayer dollars in an election campaign could distort the debate⁸ and undermine the fairness of the election.⁹ More specifically, courts have worried about public agency communications overwhelming voters¹⁰ and drowning out the views of others.¹¹ Restrictions also are a way of maintaining the integrity of the electoral process by neutralizing any advantage that those with special access to government resources might possess.¹²

That being said, courts have also recognized that public agencies have a role to play in making sure the public has the factual, impartial information it needs to make informed decisions. One court explained the role this way:

“If government is to secure cooperation in implementing its programs, if it is to be able to maintain a dialogue with its citizens about their needs and the extent to which government can or should meet those needs, government must be able to communicate. An approach that would invalidate all controversial government speech would seriously impair the democratic process.”¹³

The court also noted that, if public agencies cannot address issues of public concern and controversy, they cannot govern.¹⁴

3. What guidelines have the courts provided on using public resources relating to ballot measures?

California courts have, in essence, created three categories of activities:

- Those that are usually **impermissible** campaign activities;
- Those that are usually **permissible** informational activities; and

⁷ Cal. Gov't Code § 89003.

⁸ See *Vargas*, 46 Cal. 4th at 31-32.

⁹ *Vargas*, 46 Cal. 4th at 36-37.

¹⁰ See *Vargas*, 46 Cal. 4th at 23-24, 32, citing *Stanson v. Mott*, 17 Cal. 3d 206, 216-217 (explaining that, as a constitutional matter, “the use of the public treasury to mount an election campaign which attempts to influence the resolution of issues which our Constitution leave[s] to the ‘free election’ of the people (see Cal. Const., art. II, § 2) . . . present[s] a serious threat to the integrity of the electoral process”). See also *Keller v. State Bar*, 47 Cal.3d 1152, 1170-1172, (1989), *reversed on other grounds* 496 U.S. 1 (1990).

¹¹ *Vargas*, 46 Cal. 4th at 46 (concurring opinion).

¹² *San Leandro Teachers Ass'n v. Governing Bd. of San Leandro Sch. Dist.*, 46 Cal.4th 822, 845 (2009).

¹³ *Miller v. Comm'n on the Status of Women*, 151 Cal. App. 3d 693, 701 (1984).

¹⁴ *Id.*

- Those that may **require further analysis** under the “style, tenor and timing” test.¹⁵

Impermissible activities include using public funds for communications that expressly advocate a particular result in an election, or to purchase campaign materials such as bumper stickers, posters, advertising “floats,” television and radio spots and billboards.¹⁶ Another improper activity is using public resources to disseminate advocacy materials prepared by others.¹⁷ The production and mailing of “promotional campaign brochures” is also not allowed, even when those documents contain some useful factual information for the public.¹⁸

Permissible activities include:

- The governing body of the agency taking a position on a ballot measure in an open and public meeting where all perspectives may be shared;¹⁹
- Preparing impartial staff reports and other analyses to assist decision-makers in determining the impact of the measure and what position to take;²⁰
- Responding to inquiries about ballot measures in ways that provide a fair presentation of the facts about the measure and the agency’s view of the merits of a ballot measure including, if applicable, the governing body’s position on the measure.²¹
- Accepting invitations to present the agency’s views before organizations interested in the ballot measure’s effects including, if applicable, the governing body’s position on the measure.²²

Any activity or expenditure that doesn’t fall into either the “usually **impermissible**” or “usually **permissible**” category must be evaluated by a “style, tenor and timing” standard against the backdrop of the overarching concern for fairness and non-distortion in the electoral process.²³ The safest approach is to deliver the information through regular agency communications channels (for example, the agency’s existing website or newsletter), in a way that emphasizes facts and does not use inflammatory language or argumentative rhetoric.²⁴ Any communications should not encourage the public to adopt the agency’s views, vote one way or another, or take any other actions in support of or in opposition to the measure.²⁵

4. What are the consequences of stepping over the line dividing permissible from impermissible uses of public resources with respect to ballot measure activities?

The stakes are high for those involved in misuses of public resources. Public officials face personal liability—criminal and civil—for stepping over the line.

¹⁵ Vargas, 46 Cal. 4th at 7, citing Stanson, 17 Cal. 3d at 222 & n. 8.

¹⁶ Vargas, 46 Cal. 4th at 24, 32, 42.

¹⁷ Vargas, 46 Cal. 4th at 24, 35.

¹⁸ Vargas, 46 Cal. 4th at 39 n. 20.

¹⁹ Vargas, 46 Cal. 4th at 37. See also *Choice-In-Education League v. Los Angeles Unified Sch. Dist.*, 17 Cal. App. 4th 415, 429-30 (1993).

²⁰ Vargas, 46 Cal. 4th at 36-37.

²¹ Vargas, 46 Cal. 4th at 24-25, 33.

²² Vargas, 46 Cal. 4th at 25, 36, citing Stanson, 17 Cal. 3d at 221.

²³ Vargas, 46 Cal. 4th at 7, 30, 40.

²⁴ Vargas, 46 Cal. 4th at 34, 40 (compare with the tone of the newsletter described in footnote 20).

²⁵ Vargas, 46 Cal. 4th at 40.

Improper use of public resources is a crime.²⁶ Criminal penalties include a two- to four-year state prison term and permanent disqualification from public office.²⁷

Civil penalties include a fine of up to \$1,000 for each day the violation occurs, *plus* three times the value of the resource used.²⁸ Other consequences may include having to reimburse the agency for the value of the resources used.²⁹ Those charged with improper use of public resources may have to pay not only their own attorney's fees, but also those of any individual who is challenging the use of resources.³⁰

In addition, conflicting perspectives on whether there might be a "*de minimus*" defense makes relying on such a defense risky.³¹ This includes relying on the defense that one has reimbursed the value of using public resources improperly.

Finally, engaging in such activities gives rise to reporting obligations for public agencies under the Political Reform Act.³² Failure to comply with these requirements subjects an agency to additional penalties.³³

There is a political consequence as well. If the public and news media are talking about whether a public agency violated the law in spending public funds to campaign for or against a measure, they're not talking about the merits of the measure. Keeping the focus on the ethics of the public agency instead of the merits of the measure often results in a result that is not helpful to the public agency.

5. Are there general strategies a public agency should employ to make sure that it doesn't step over any lines?

The first is to make sure that public agency employee and officials are aware of these restrictions and the significant consequences for violating them.

Another strategy is to review the issues in this guide with agency counsel at the outset of any ballot measure related activities to be clear on how he or she interprets the law in this area. In many areas, the law is not clear and an agency is well-advised to understand their attorney's interpretations of what is allowed and what is risky. The next strategy is to have a practice of consulting with agency counsel on the application of these restrictions to specific issues that arise. Agency counsel should review all communications about ballot measures or other elections in advance.

²⁶ See Cal. Penal Code §§ 72.5(b) (use of public funds to attend a political function to support or oppose a ballot measure); 424 (misappropriation of public funds); 484-87 (theft). See also *People v. Battin*, 77 Cal. App. 3d 635 (1978) (prosecution of county supervisor for engaging campaign activities during county business hours using county facilities), *superseded on other grounds by People v. Conner*, 34 Cal. 3d 141 (1983).

²⁷ Cal. Penal Code § 424.

²⁸ Cal. Gov't Code § 8314(c)(1).

²⁹ *Stanson*, 17 Cal. 3d at 226-227 (finding that "public officials must use due care, *i.e.*, reasonable diligence in authorizing the expenditure of public funds, and may be subject to personal liability for improper expenditures made in the absence of due care"). See also *Harvey v. County of Butte*, 203 Cal. App. 3d 714, 719 (1988).

³⁰ See generally *Tenwolde v. County of San Diego*, 14 Cal. App. 4th 1083 (4th Dist. 1993), *rev. denied*.

³¹ See *People v. Battin*, 77 Cal. App. 3d at 65 (1978) (Penal Code section 424's "proscription is not limited to the misuse of public funds in a particular monetary amount. Rather it proscribes *any* misuse, no matter how small." [emphasis in original]). See also *People v. Bishop*, A081989 (1st Dist. 2000) (this unpublished opinion follows *People v. Battin* and holds that reimbursement is not a defense). *But see DiQuisto v. County of Santa Clara*, 181 Cal. App. 4th 236 (2010) (majority found that sending an editorial against a ballot measure via email on one's lunch hour constituted advocacy, but involved a minimal use of public resources—note dissenting opinion disagreeing with majority's minimal-use-of-public-resources conclusion).

³² Cal. Gov't Code § 84203.5 (requiring independent expenditure reports by committees spending more than \$500 each year in support or opposition to a ballot measure).

³³ See, for example, Cal. Gov't Code §§ 83116, 91001(b), 91000(a), 91001.5, 91002, 91004, 91005, 91012.

Finally, documenting an agency's respect for these restrictions is another important strategy. Attorneys refer to this as creating a *record*. Potential challengers to an agency's activities will review the record and other materials (including emails, for example) to determine whether to file a lawsuit. A court will examine the record in deciding whether any missteps occurred. The agency will want to be able to point to documentation that demonstrates that all actions were well within the boundaries dividing lawful from unlawful conduct.

Before a Measure is Put on the Ballot

1. If a public agency wants to draft a measure on the ballot; may public resources be used?

Under both the California Elections Code and case law, local agencies may use public resources to draft a measure for the ballot.³⁴ The theory is that, prior to and through the drafting stage of a proposed ballot measure, the activities do not involve attempting to either persuade the voters or otherwise influence the vote.³⁵

2. What about other activities a local agency may wish to engage in prior to placing a measure on the ballot?

Local agencies do not have specific guidance from a majority of the California Supreme Court on this issue, although there are general principles that can be applied. The Court seems to use a two-part analysis in evaluating public agency activities *vis-à-vis* ballot measures. One part goes to the issue of whether a particular public agency has the legal authority to spend public funds on ballot measure activities. The other is whether the use of that legal authority oversteps what the courts may perceive as constitutional restrictions on what may be done with public resources.³⁶

When drafting and placing a measure on the ballot, the California Elections Code provides the legal authority for cities and counties.³⁷ The remaining question is whether certain kinds of activities are appropriate as part of that effort?

³⁴ *Vargas v. City of Salinas*, 46 Cal. 4th 1, 36 (2009); *League of Women Voters of California v. Countywide Criminal Justice Coordination Comm.*, 203 Cal. App. 3d 529 (1988); *Santa Barbara County Coal. Against Auto. Subsidies v. Santa Barbara County Ass'n of Governments*, 167 Cal. App. 4th 1229 (2008). See also Cal. Elect. Code §§ 9140 [county board of supervisors], 9222 [legislative body of municipality]; FPPC Advice Letter to Hicks, No. I-98-007 (02/20/98); FPPC Advice Letter to Roberts, No. A-98-125(06/01/98).

³⁵ *League of Women Voters*, 203 Cal. App. 3d at 550 ("The audience at which these activities are directed is not the electorate per se, but only potentially interested private citizens; there is no attempt to persuade or influence *any* vote."), citing *Miller v. Miller* 87 Cal. App. 3d 762, 768 (1978).

³⁶ See *Vargas*, 46 Cal. 4th at 29:

As we have seen, in *Stanson*, *supra*, 17 Cal.3d 206, this court, after explaining that a "serious constitutional question . . . would be posed by an explicit legislative authorization of the use of public funds for partisan campaigning" (*id.* at p. 219, italics added), reaffirmed our earlier holding in *Mines*, *supra*, 201 Cal. 273, that the use of public funds for campaign activities or materials unquestionably is impermissible in the absence of "clear and unmistakable language" authorizing such expenditures. (*Stanson*, at pp. 219-220.) Section 54964 does not clearly and unmistakably authorize local agencies to use public funds for campaign materials or activities so long as those materials or activities avoid using language that expressly advocates approval or rejection of a ballot measure. Instead, the provision prohibits the expenditure of public funds for communications that contain such express advocacy, even if such expenditures have been affirmatively authorized, clearly and unmistakably, by a local agency itself. Although section 54964, subdivision (c) creates an exception to the statutory prohibition for communications that satisfy the two conditions set forth in that subdivision, subdivision (c) (like the other provisions of section 54964) does not purport affirmatively

³⁷ See Cal. Elect. Code §§ 9140 (authorizing boards of supervisors to place measures on the ballot); 9222 (authorizing city councils to place measures on the ballot).

In a case involving a local transportation agency, a court of appeal found the agency had authority under state law to find additional sources of funding for transportation³⁸ and the agency was following the prescribed steps for putting a measure before the voters (which included such activities as preparing a transportation plan).³⁹ The court noted that the activities the agency engaged in occurred before the transportation expenditure plan was approved or the ordinance placing a measure on the ballot was finalized.⁴⁰

The fact that the agency's challenged activities occurred well before the measure was put on the ballot was enough for the court. In this regard, the court drew a distinction between activities involving the expenditure of public funds for *governing* and the expenditure of funds for election *campaigning*.⁴¹

The court in the transportation agency case relied heavily on the analysis of an earlier court of appeal decision. In that case, which involved a county, the court suggested that putting a measure on the ballot was okay, but other activities may be a closer call.⁴² The court concluded that:

“On balance, we conclude the power to draft the proposed initiative necessarily implies the power to seek out a willing proponent. We do not perceive the activities of identifying and securing such a proponent for a draft initiative as entailing any degree of public advocacy or promotion, directed at the electorate, of the single viewpoint embodied in the measure.”⁴³

The California Supreme Court agrees with this case to the extent that the case interpreted earlier Supreme Court decisions as allowing public agencies to express opinions on the merits of a proposed ballot measure, so long as agencies do not spend public funds to mount a campaign in favor of the measure.⁴⁴ Generally summarized, it appears that public agencies may spend public funds to research potential provisions of a ballot measure, draft the measure itself, take the procedural steps necessary to get it on the ballot, have the governing body take a position on the measure, and inform voters about the provisions of the measure in a factual, impartial way.

3. Before we put a measure on the ballot, we want to evaluate its likelihood of success by engaging in various forms of public opinion research (for example, polling and focus groups) to understand how the community might feel about such a measure. May we use public resources for that kind of activity?

Although no court has specifically addressed this, the Attorney General has said that public agencies may spend money for polling and research as long as those resources are not being

³⁸ See *Santa Barbara County Coal. Against Auto. Subsidies*, 167 Cal. App. 4th at 1239-40, (The Local Transportation Authority and Improvement Act (Act), which the court described as “a comprehensive statutory scheme to ‘raise additional local revenues to provide highway capital improvements and maintenance and to meet local transportation needs in a timely manner’” citing Cal. Pub. Util. Code, § 180000-180003).

³⁹ See *Santa Barbara County Coal. Against Auto. Subsidies*, 167 Cal. App. 4th at 1234., (The agency had retained a private consultant to survey voter support for an extension of the sales tax. The consultant determined the arguments in favor of extension that were received most favorably by the voters polled, potential arguments in opposition, and the best strategy to maximize voter support. In addition, agency staff and committee members attended public meetings with civic groups during which staff presented information regarding the transportation expenditure plan, and the importance of extending an earlier sales tax to satisfying the county's transportation needs).

⁴⁰ See *Santa Barbara County Coal. Against Auto. Subsidies*, 167 Cal. App. 4th at 1240.

⁴¹ See *Santa Barbara County Coal. Against Auto. Subsidies*, 167 Cal. App. 4th at 1241.

⁴² *League of Women Voters*, 203 Cal. App. 3d at 553 (“Whether CCJCC legitimately could direct the task force to identify and secure a willing sponsor is somewhat more problematical.”)

⁴³ *League of Women Voters*, 203 Cal. App. 3d at 554.

⁴⁴ *Vargas*, 46 Cal. 4th at 36.

used to promote a single view in an effort to influence the electorate. For example, the Attorney General has determined that, in preparation for submitting a bond measure to the electorate for approval, a community college district may use district funds to hire a consultant to conduct surveys and establish focus groups to assess the potential support and opposition to the measure, the public's awareness of the district's financial needs, and the overall feasibility of developing a bond measure that could win voter approval.⁴⁵ The Attorney General based his analysis on a court of appeal case that allowed pre-qualification activities,⁴⁶ noting that the audience for such activities is not the electorate.⁴⁷

4. May this research be used by advocacy or opposition groups to inform their strategies?

In the Attorney General opinion on the community college bond measure, the Attorney General noted that the fact that early focus group and polling information might prove to be of use in an ensuing campaign does not, in itself, necessitate the conclusion public funds were expended improperly.⁴⁸ The Attorney General did note that donating or providing this information to a political campaign may give rise to campaign reporting obligations under the Political Reform Act.⁴⁹ Furthermore, the poll results and the polling consultant's report on the research will undoubtedly be considered to be public records.

Note on Public Records

A factor to keep in mind is the degree to which the consultant's research is likely to constitute a public record⁵⁰ subject to disclosure upon request to anyone under California's Public Records Act.⁵¹

5. May a public agency use public resources to hire a communications strategist (consultant) to advise the agency on an effort to place a matter on the ballot? Some of the issues the consultant would advise on include:

- a) *Interpreting and applying the public opinion research and advising on such issues as timing of the election;*
- b) *What kind of balloting method to use;*
- c) *Effective themes and messages to use in describing the measure to the community;*
- d) *Areas where the public may need more information;*

⁴⁵ 88 Ops. Cal. Att'y Gen. 46 (2005).

⁴⁶ *League of Women Voters*, 203 Cal. App. 3d at 552-54.

⁴⁷ 88 Ops. Cal. Att'y Gen. at 49-50 (noting that "not every activity in connection with a bond measure will necessarily be proper if taken before the measure is placed on the ballot. Activities directed at swaying voters' opinions are improper, even pre-filing.")

⁴⁸ 88 Ops. Cal. Att'y Gen. at 50, citing *League of Women Voters*, 203 Cal. App. 3d at 554.

⁴⁹ 88 Ops. Cal. Att'y Gen. at 50, citing Cal. Gov't Code, § 81000 and following, 2 Cal. Code Regs. § 18215; *Hoffman Advice Letter*, No. A-00-074 (Cal. Fair Political Practices Comm'n March 28, 2000); *Fair Political Practices Comm'n v. Suitt*, 90 Cal. App. 3d 125, 128-132 (1979).

⁵⁰ See Cal. Gov't Code § 6252(e) ("Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.").

⁵¹ See Cal. Gov't Code § 6253 (a), (b) ("Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. . . Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.").

- e) *Communications planning;*
- f) *Community outreach activities;*
- g) *Informational direct mail program;*
- h) *Creating an informational speakers bureau; and*
- i) *Interpreting “tracking poll” data after outreach program to re-assess community support for the measure.*

Some public agencies have ongoing and robust communications and engagement efforts with their communities as part of their philosophy of governance. In such communities, hiring help on community outreach activities and communications planning (or having such capacity in house) is part of how the agency generally operates. Consistency with a public agency’s established practices is one of the factors the courts look for in assessing whether a particular use of public resources with respect to ballot measure communications is okay.⁵²

The key distinction to keep in mind under the current state of appellate guidance is whether a given use of public resources relates to *governing* as opposed to election *campaigning*.⁵³ Understanding community sentiment and needs and then developing measures to meet those needs can be part of an agency’s ongoing governance and communications practices. So can maintaining regular lines of communications between decision-makers and the community.

However, if these activities are not typically part of the agency’s philosophy of governance and regular communications practices, then using public resources for these purposes can be riskier. For example, the Attorney General has concluded that it would be unlawful to use public agency funds to hire a consultant to develop and implement a strategy for building support for a ballot measure (both in terms of building coalitions and financial support for a campaign). The Attorney General said having the consultant assist the district chancellor in scheduling meetings with civic leaders and potential campaign contributors in order to gauge their support for the bond measure would be unlawful if the purpose or effect of such actions is to develop a campaign to promote approval of the bond measure by the electorate.⁵⁴

Under this opinion, the key test is whether the “purpose or effect” of a consultant’s activities is to develop a campaign to promote approval of the bond measure; if so, those activities should not be undertaken with public resources.⁵⁵ The Attorney General said this means public resources should not be used to fund activities that will form the basis for an eventual campaign to obtain approval of a measure.⁵⁶ It also means that the safest thing to do is to avoid using public resources for activities that may have the effect of influencing the voters (for example, “developing themes or messages”).

If the agency does hire communications consultants, the agency and the consultants should be aware of the transparency requirements that apply to public entity endeavors. This includes the fact that the scope of work in the consultant’s contract, the consultant’s work product, emails

⁵² *Vargas*, 46 Cal. 4th at 40. See also Cal. Gov’t Code § 54964(a), (b)(3) (prohibiting local public agency expenditures for activities that expressly advocate the approval or rejection of a clearly identified ballot measure).

⁵³ See *Santa Barbara County Coal. Against Auto. Subsidies*, 167 Cal. App. 4th at 1241.

⁵⁴ 88 Ops. Cal. Att’y Gen. at 52.

⁵⁵ 88 Ops. Cal. Att’y Gen. at 52.

⁵⁶ 88 Ops. Cal. Att’y Gen. at 52, citing *League of Women Voters*, 203 Cal. App. 3d at 558 (expenditures made in anticipation of supporting a measure once it is on the ballot come within reporting requirements of Political Reform Act of 1974); *In re Fontana* (1976) 2 FPPC Ops. 25 (expenditures made in support of proposal become reportable after proposal becomes a ballot measure).

and other writings relating to their work that are in the possession of and regularly retained by the agency will be subject to public disclosure should there be an inquiry.⁵⁷

6. Are there any concerns if the communications strategist ultimately becomes either one of the consultants or the sole consultant to the campaign?

No court decision or Attorney General opinion addresses this specific issue. Having consultants involved in pre-qualification activities (which are not supposed to involve actions designed to develop a campaign to promote approval of a measure) and then become involved in campaign activities may create a greater risk that a court may conclude the pre-qualification activities were truly designed to support a campaign to promote approval of a measure. It also increases the possibility that the pre-qualification expenses will be reportable as in kind support for the campaign.

7. May public resources be used to fund signature gathering to qualify a measure for the ballot?

The Attorney General says “no.”⁵⁸ The Attorney General reasoned that such activities cross the line to promoting a single point of view and influence the electorate, which cannot occur unless there is clear and explicit authorization for such activities.⁵⁹

About the Institute for Local Government

The Institute for Local Government is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities, the California State Association of Counties and the California Special Districts Association.

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⁵⁷ See Cal. Gov't Code § 6250 and following (California Public Records Act). The breadth of what records are subject to disclosure was recently reviewed by the California Sixth District Appellate Court, which vacated a superior court ruling holding that emails sent and received on officials' personal (non-agency) email accounts are subject to disclosure, see *City of San Jose v. Superior Court of Santa Clara*, --- Cal.Rptr.3d ---, 2014 WL 1515001 (Cal.App. 6 Dist., 2014).

⁵⁸ 73 Ops. Cal. Att'y Gen. 255 (1990).

⁵⁹ See 73 Ops. Cal. Att'y Gen. at 266 (finding no distinction between an initiative or referendum or whether the measure was a state or local one).



A Public Agency

LEGISLATIVE UPDATES

From Environmental and Energy
Consulting (EEC) and Committee
Discussion



STAFF REPORT

To: SBWMA Legislative Committee Members
From: Julia Au, Sr. Outreach, Education and Compliance Manager
Date: June 25, 2021 Legislative Committee Meeting
Subject: Legislative Updates from Environmental and Energy Consulting (EEC) and Committee Discussion

Recommendation

This staff report is for discussion purposes only.

Summary

The Agency's lobbyist, Environmental and Energy Consulting (EEC) will provide an update on the current 2021-2022 California Legislative Session activities and status of important legislation. They will also discuss and recap what happened with SB 289 (Newman) that was held in the Senate Appropriations Committee that ended the legislative process for this bill that the Agency was co-sponsoring. EEC will also discuss the Bottle Bill and related issues. Attachment A contains the status of all priority bills EEC is tracking this session for the Agency.

Attachments:

Attachment A – Bill Tracking for 2021-2022 Session updated as of June 17, 2021

RethinkWaste Legislative Update Thursday, June 17, 2021

High

[AB 125](#) (Rivas, Robert D) Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022.

Status: 4/15/2021-From committee: Do pass and re-refer to Com. on NAT. RES. (Ayes 10. Noes 0.) (April 15). Re-referred to Com. on NAT. RES.

Location: 4/15/2021-A. NAT. RES.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would enact the Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$3,302,000,000 pursuant to the State General Obligation Bond Law, to finance programs related to, among other things, agricultural lands, food and fiber infrastructure, climate resilience, agricultural professionals, including farmers, ranchers, and farmworkers, workforce development and training, air quality, tribes, disadvantaged communities, nutrition, food aid, meat processing facilities, fishing facilities, and fairgrounds.

Organization	Position	Priority
RethinkWaste	Watch	High

[AB 1500](#) (Garcia, Eduardo D) Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.

Status: 5/20/2021-Joint Rule 62(a), file notice suspended. From committee: Do pass and re-refer to Com. on RLS. (Ayes 12. Noes 3.) (May 20). Re-referred to Com. on RLS.

Location: 5/20/2021-A. RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$7,080,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

Organization	Position	Priority
RethinkWaste	Watch	High

[SB 45](#) (Portantino D) Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022.

Status: 6/1/2021-Ordered to inactive file on request of Senator Portantino.

Location: 6/1/2021-S. INACTIVE FILE

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$5,595,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

Organization	Position	Priority
RethinkWaste	Watch	High

[SB 54](#) (Allen D) Plastic Pollution Producer Responsibility Act.

Status: 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was INACTIVE FILE on 5/20/2021)(May be acted upon Jan 2022)

Location: 6/4/2021-S. 2 YEAR

Desk	Policy	Fiscal	2 year	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would establish the Plastic Pollution Producer Responsibility Act, which would prohibit producers of single-use, disposable packaging or single-use, disposable food service ware products from offering for sale, selling, distributing, or importing in or into the state such packaging or products that are manufactured on or after January 1, 2032, unless they are recyclable or compostable.

Organization **Position** **Priority**
 RethinkWaste Watch High

SB 289

(Newman D) Recycling: batteries and battery-embedded products.

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/17/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-S. 2 YEAR

Desk	Policy	2 year	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would make the Rechargeable Battery Recycling Act of 2006 and the Cell Phone Recycling Act of 2004 inoperative as of June 30, 2025, and would repeal those acts as of January 1, 2026. The bill would enact the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021, which would require producers, as defined, either individually or through the creation of one or more stewardship organizations, to establish a stewardship program for batteries and battery-embedded products.

Organization **Position** **Priority**
 RethinkWaste Sponsor High

Notes: Support letter submitted.

SB 343

(Allen D) Environmental advertising: recycling symbol.

Status: 6/14/2021-From committee with author's amendments. Read second time and amended. Referred to Com. on NAT. RES.

Location: 6/10/2021-A. NAT. RES.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar: 6/23/2021 9 a.m. - State Capitol, Room 4202 ASSEMBLY NATURAL RESOURCES, RIVAS, LUZ, Chair

Summary: Current law declares that it is the public policy of the state that environmental marketing claims, whether explicit or implied, should be substantiated by competent and reliable evidence to prevent deceiving or misleading consumers about the environmental impact of plastic products and that, for consumers to have accurate and useful information about the environmental impact of plastic products, environmental marketing claims should adhere to uniform and recognized standards. This bill would further declare that it is the public policy of the state that claims related to the recyclability of a plastic product be truthful and that consumers deserve accurate and useful information related to how to properly handle the end of life of a plastic product.

Organization **Position** **Priority**
 RethinkWaste Support High

Notes: Sign-on support letter submitted.

SB 619

(Laird D) Organic waste: reduction regulations.

Status: 5/28/2021-Referred to Com. on NAT. RES.

Location: 5/28/2021-A. NAT. RES.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar: 6/23/2021 9 a.m. - State Capitol, Room 4202 ASSEMBLY NATURAL RESOURCES, RIVAS, LUZ, Chair

Summary: Current law requires the Department of Resources Recycling and Recovery, in consultation with the state board, to adopt regulations to achieve those targets for reducing organic waste in landfills, and authorizes those regulations to require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction, to authorize local jurisdictions to impose penalties on generators for noncompliance, and to include penalties to be imposed by the department for noncompliance. Current law provides that those regulations shall take effect on or after January 1, 2022, except that the imposition of penalties by local jurisdictions pursuant to the regulations shall not take effect until 2 years after the effective date of the regulations. This bill, until January 1, 2023, would require the department to only impose a penalty on a local jurisdiction, and would require a penalty to only accrue, for a violation of the regulations if the local jurisdiction did not make a reasonable effort, as determined by the department, to comply with the regulations.

Organization **Position** **Priority**
 RethinkWaste Support in Concept High

Notes: Position letter submitted.

Medium

AB 332

(Committee on Environmental Safety and Toxic Materials) Hazardous waste: treated wood waste: management standards.

Status: 6/14/2021-From committee: Do pass and re-refer to Com. on JUD. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (June 14). Re-referred to Com. on JUD.

Location: 6/14/2021-S. JUD.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar: 6/22/2021 1:30 p.m. - Senate Chamber SENATE JUDICIARY, UMBERG, Chair

Summary: Current law, as part of the hazardous waste control laws, requires the Department of Toxic Substances Control to regulate the management and handling of hazardous waste. Under current law, certain wood waste that is exempt from regulation under the federal Resource Conservation and Recovery Act of 1976, as amended, is exempt from the hazardous waste control laws, if the wood waste is disposed of in a municipal landfill that meets certain requirements imposed pursuant to the Porter-Cologne Water Quality Control Act for the classification of disposal sites, and the landfill meets other specified requirements. A violation of the state’s hazardous waste control laws, including a regulation adopted pursuant to those laws, is a crime. This bill would require a person managing treated wood waste to comply with the hazardous waste control laws or the management standards established in the bill, including standards for the reuse, storage, treatment, transportation, tracking, identification, and disposal of treated wood waste, as provided.

Organization	Position	Priority
RethinkWaste	Support	Medium

Notes: Sign-on support letter submitted.

AB 377

(Rivas, Robert D) Water quality: impaired waters.

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/19/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-A. 2 YEAR

Desk	Policy	2 year	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would require, by January 1, 2023, the State Water Resources Control Board and regional boards to prioritize enforcement of all water quality standard violations that are causing or contributing to an exceedance of a water quality standard in a surface water of the state. The bill would require the state board and regional boards, by January 1, 2025, to evaluate impaired state surface waters and report to the Legislature a plan to bring all water segments into attainment by January 1, 2050. The bill would require the state board and regional boards to update the report with a progress summary to the Legislature every 5 years. The bill would create the Waterway Recovery Account in the Waste Discharge Permit Fund and would make moneys in the Waterway Recovery Account available for the state board to expend, upon appropriation by the Legislature, to bring impaired water segments into attainment in accordance with the plan.

Organization	Position	Priority
RethinkWaste	Watch	Medium

AB 478

(Ting D) Solid waste: thermoform plastic containers: postconsumer recycled plastic.

Status: 6/9/2021-Referred to Coms. on E.Q. and JUD.

Location: 6/9/2021-S. E.Q.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar: 7/1/2021 Upon adjournment of Session - John L. Burton Hearing Room (4203) SENATE ENVIRONMENTAL QUALITY, ALLEN, Chair

Summary: Would, on and after January 1, 2024, require the total thermoform plastic containers, as defined, sold by a producer, as defined, in the state to contain, on average, specified amounts of postconsumer recycled plastic, as defined, per year pursuant to a tiered plan that would require the total thermoform plastic containers to contain, on average, no less than 30% postconsumer recycled plastic per year on and after January 1, 2030.

Organization	Position	Priority
RethinkWaste	Watch	Medium

AB 683

(Grayson D) Recycling: procurement.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was A. & A.R. on 3/18/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law relating to public contracting establishes the State Agency Buy Recycled

Campaign (SABRC), which requires state agencies to ensure specific percentages of reportable purchases from prescribed product categories to be recycled products. Current law requires each state agency, if fitness and quality are equal, to purchase recycled products instead of nonrecycled products whenever recycled products are available at the same or a lesser total cost than nonrecycled products. Current law establishes minimum content requirements for recycled products. Current law requires a state agency to report annually to the Department of Resources Recycling and Recovery its progress in meeting the recycled product purchasing requirements using a SABRC report format. Current law requires the Department of General Services (DGS), if a requirement has not been met, in consultation with the Department of Resources Recycling and Recovery, to review purchasing policies and make recommendations for immediate revisions to ensure that the recycled product purchasing requirements are met. This bill would authorize the Department of Resources Recycling and Recovery, on or after January 1, 2022, to add additional products based on criteria selected by the Department of General Services.

Organization **Position** **Priority**
RethinkWaste Watch Medium

AB 802

(Bloom D) Microfiber pollution.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 2/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would require the Water Resources Control Board to identify the best available control technology for filtering microfibers from an industrial, institutional, or commercial laundry facility on or before an unspecified date, and would require the state board to consult with owners and operators of laundry facilities on the types of filtration systems currently in use and with universities, scientific organizations, and experts on plastic pollution in identifying the best available control technology. The bill would also require, on or before an unspecified date, any entity that operates an industrial, institutional, or commercial laundry facility to adopt the use of the best available control technology to capture microfibers that are shed during washing.

Organization **Position** **Priority**
RethinkWaste Watch Medium

AB 818

(Bloom D) Solid waste: premoistened nonwoven disposable wipes.

Status: 6/14/2021-From committee: Do pass and re-refer to Com. on JUD. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (June 14). Re-referred to Com. on JUD.

Location: 6/14/2021-S. JUD.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar: 6/29/2021 1:30 p.m. - Senate Chamber SENATE JUDICIARY, UMBERG, Chair

Summary: Would require, except as provided, certain premoistened nonwoven disposable wipes manufactured on or after July 1, 2022, to be labeled clearly and conspicuously with the phrase "Do Not Flush" and a related symbol, as specified. The bill would prohibit a covered entity, as defined, from making a representation about the flushable attributes, benefits, performance, or efficacy of those premoistened nonwoven disposable wipes, as provided. The bill would establish enforcement provisions, including authorizing a civil penalty not to exceed \$2,500 per day, up to a maximum of \$100,000 per violation, to be imposed on a covered entity who violates those provisions.

Organization **Position** **Priority**
RethinkWaste Support Medium

Notes: Sign-on support letter submitted.

AB 842

(Garcia, Cristina D) California Circular Economy and Plastic Pollution Reduction Act.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 3/18/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would enact the California Circular Economy and Plastic Pollution Reduction Act, which would establish a comprehensive regulatory scheme for producers, retailers, and wholesalers of single-use packaging, as defined, and single-use products, as defined, made partially or entirely of plastic, to be administered by the Department of Resources Recycling and Recovery. The bill would require producers, within 6 months of the department's adoption of regulations to implement the act, to individually, or to collectively form or join a stewardship organization that will, develop, finance, and implement a convenient and cost-effective program to source reduce, recover, and recycle single-use packaging and single-use products discarded in the state, and develop and submit to the department a stewardship plan, annual report, and budget, as prescribed.

Organization **Position** **Priority**
 RethinkWaste Watch Medium

[AB 962](#)

(Kamlager D) California Beverage Container Recycling and Litter Reduction Act: returnable beverage containers.

Status: 6/14/2021-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on E.Q.

Location: 6/3/2021-S. E.Q.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar: 6/28/2021 9 a.m. - John L. Burton Hearing Room (4203) SENATE ENVIRONMENTAL QUALITY, ALLEN, Chair

Summary: The California Beverage Container Recycling and Litter Reduction Act requires the Department of Resources Recycling and Recovery to certify processors and requires certified processors to comply with specified requirements for operation, including, among others, taking the actions necessary and approved by the department to cancel containers to render them unfit for redemption. A violation of the act is an infraction. This bill would authorize, for a returnable beverage container, a processor approved by the department to handle returnable beverage containers to satisfy those operation requirements by transferring the returnable beverage container to a washer approved by the department.

Organization **Position** **Priority**
 RethinkWaste Watch Medium

[AB 1086](#)

(Aguilar-Curry D) Organic waste: implementation strategy.

Status: 6/16/2021-Re-referred to Coms. on E.Q. and N.R. & W.

Location: 6/16/2021-S. E.Q.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would require the Natural Resources Agency, in coordination with specified state agencies, and in consultation with stakeholders and relevant permitting agencies, to prepare and submit to the Legislature, by January 1, 2023, a report that provides an implementation strategy to achieve the state's organic waste, and related climate change and air quality, mandates, goals, and targets. The bill would authorize the Natural Resources Agency to, by July 1, 2022, contract with outside entities, including the California Council on Science and Technology and the University of California, to prepare the report. The bill would require the implementation strategy to include, among other things, recommendations on policy and funding support for the beneficial reuse of organic waste.

Organization **Position** **Priority**
 RethinkWaste Support Medium

Notes: Support letter submitted.

[AB 1276](#)

(Carrillo D) Single-use food accessories.

Status: 6/16/2021-Referred to Coms. on E.Q. and GOV. & F.

Location: 6/16/2021-S. E.Q.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would prohibit a food facility or a third-party food delivery platform, as defined, from providing any single-use food accessories, as defined, to a consumer unless requested by the consumer, as provided. The bill would authorize a food facility to ask a drive-through consumer if the consumer wants a single-use food accessory in specified circumstances. The bill would require a third-party food delivery platform to provide each of its ready-to-eat food vendors with the option to customize the vendor's menu, on the online food-ordering platform, regarding the availability of single-use food accessories, as provided. The bill would exclude from these requirements correctional institutions, health care facilities, residential care facilities, and public and private school cafeterias.

Organization **Position** **Priority**
 RethinkWaste Support Medium

Notes: Sign-on support letter submitted.

[AB 1371](#)

(Friedman D) Recycling: plastic: packaging and carryout bags.

Status: 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was THIRD READING on 5/25/2021)(May be acted upon Jan 2022)

Location: 6/4/2021-A. 2 YEAR

Desk	Policy	Fiscal	2 year	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would prohibit an online retailer that sells or offers for sale and ships purchased products

in or into the state from using single-use plastic packaging that consists of shipping envelopes, cushioning, or void fill to package or transport the products, on and after January 1, 2023, for large online retailers, as defined, and on and after January 1, 2025, for small online retailers, as defined. The bill would prohibit a manufacturer, retailer, producer, or other distributor that sells or offers for sale and ships purchased products in or into the state from using expanded polystyrene packaging to package or transport the products, except televisions, printers, computer screens, and large appliances until January 1, 2023.

Organization **Position** **Priority**
RethinkWaste Watch Medium

AB 1454 (Bloom D) The California Beverage Container and Litter Reduction Act.

Status: 6/16/2021-Referred to Com. on E.Q.

Location: 6/16/2021-S. E.Q.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: The California Beverage Container Recycling and Litter Reduction Act requires the Department of Resources Recycling and Recovery to annually designate convenience zones on a statewide basis and requires that at least one certified recycling center or location that meets certain requirements be located within every convenience zone, with exemptions. The act defines convenience zone as either the area within a 1/2 mile radius of a supermarket or the area designated by the department in a rural region. This bill would allow the department to designate a regional convenience zone serving up to 5 unserved supermarket-based zones based on specified factors.

Organization **Position** **Priority**
RethinkWaste Watch Medium

AJR 4 (Garcia, Cristina D) Basel Convention: ratification.

Status: 6/14/2021-From committee: Be adopted. Ordered to Third Reading. (Ayes 5. Noes 0.) (June 14).

Location: 6/14/2021-S. THIRD READING

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar: 6/17/2021 #37 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: This measure would declare California to be in favor of the United States' ratification of the Basel Convention at the earliest opportunity and would request the Biden Administration to accomplish this ratification as a matter of urgency.

Organization **Position** **Priority**
RethinkWaste Support Medium

Notes: Sign-on support letter submitted.

SB 38 (Wieckowski D) Beverage containers.

Status: 6/10/2021-Referred to Com. on NAT. RES.

Location: 6/10/2021-A. NAT. RES.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would require distributors of beverage containers in the state to form a beverage container stewardship organization. The organization would be required to develop and submit to the Department of Resources Recycling and Recovery a plan, annual report, and budget for the recovery and recycling of empty beverage containers in the state similar to that described in the Used Mattress Recovery and Recycling Act. The bill would require the organization to establish a stewardship fee, to be paid by distributor members of the organization, to assist in covering the costs of implementing the beverage container stewardship program. The bill would require the organization to reimburse the department for the department's costs of enforcing the program. The bill would require the department to deposit all moneys submitted for reimbursement into the Beverage Container Stewardship Fund, which the bill would create in the State Treasury.

Organization **Position** **Priority**
RethinkWaste Watch Medium

SB 244 (Archuleta D) Lithium-ion batteries: illegal disposal: fire prevention.

Status: 6/16/2021-From committee: Do pass and re-refer to Com. on NAT. RES. with recommendation: To consent calendar. (Ayes 9. Noes 0.) (June 16). Re-referred to Com. on NAT. RES.

Location: 6/16/2021-A. NAT. RES.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would prohibit a person from knowingly disposing of a lithium-ion battery in a container or

receptacle that is intended for the collection of solid waste or recyclable materials, unless the container or receptacle is designated for the collection of batteries for recycling, as provided.

Organization **Position** **Priority**
RethinkWaste Support Medium

Notes: Sign-on support letter submitted.

Strategic

AB 661 **(Bennett D) Recycling: materials.**

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/19/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-A. 2 YEAR

Desk	Policy	2 year	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law establishes minimum content requirements for recycled products. Current law requires a state agency to report annually to the Department of Resources Recycling and Recovery its progress in meeting the recycled product purchasing requirements using a SABRC report format. Existing law requires the Department of General Services (DGS), if a requirement has not been met, in consultation with the Department of Resources Recycling and Recovery, to review purchasing policies and make recommendations for immediate revisions to ensure that the recycled product purchasing requirements are met. This bill would require a state agency, if fitness and quality are equal, to purchase recycled products instead of nonrecycled products, without regard to cost. The bill would substantially revise product categories.

Organization **Position** **Priority**
RethinkWaste Support Strategic

Notes: Sign-on support letter submitted.

AB 881 **(Gonzalez, Lorena D) Plastic waste: diversion: recycling: export.**

Status: 6/3/2021-Referred to Com. on E.Q.

Location: 6/3/2021-S. E.Q.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar: 6/28/2021 9 a.m. - John L. Burton Hearing Room (4203) SENATE ENVIRONMENTAL QUALITY, ALLEN, Chair

Summary: The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, requires each city, county, and joint powers authority formed under the act, referred to as a regional agency, to develop a source reduction and recycling element of an integrated waste management plan. The act requires the source reduction and recycling element to divert from disposal 50% of all solid waste subject to the element through source reduction, recycling, and composting activities, with specified exceptions. This bill would make the export out of the country of a mixture of plastic wastes "disposal" for purposes of the act, unless the mixture includes only certain plastics destined for separate recycling and satisfies other specified requirements, in which case that export would constitute diversion through recycling.

Organization **Position** **Priority**
RethinkWaste Support Strategic

Notes: Sign-on support letter submitted.

AB 1201 **(Ting D) Solid waste: plastic products: labeling: compostability and biodegradability.**

Status: 6/14/2021-In committee: Hearing postponed by committee.

Location: 6/9/2021-S. E.Q.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would prohibit a person from selling a plastic product that is labeled with the term 'compostable,' 'home compostable,' or 'soil biodegradable' unless the product meets specified standards and satisfies specified criteria. The bill would authorize the Department of Resources Recycling and Recovery to adopt regulations for plastic product labeling to ensure that plastic products labeled 'compostable' or 'home compostable' are clearly distinguishable from noncompostable products upon quick inspection by consumers and solid waste processing facilities.

Organization **Position** **Priority**
RethinkWaste Support Strategic

Notes: Sign-on support letter submitted.

Total Measures: 25



A Public Agency

FOLLOW UP

Follow up on Action Items from the
previous Legislative Committee
Meeting

STAFF REPORT

To: SBWMA Legislative Committee Members
From: Julia Au, Sr. Outreach, Education and Compliance Manager
Date: June 25, 2021 Legislative Committee Meeting
Subject: Follow up on Action Items from the previous Legislative Committee Meeting

Summary

At the previous Legislative Committee Meeting, Member Dehn asked for a list of who the agency is working with, who are we formally funding vs using informally and our partnerships. Below is a table of the agency’s partnership organizations.

Name of Organization/Agency	Relationship
California Product Stewardship Council (CPSC)	<p>A leading non-profit organization based in Sacramento made up of local governments, businesses and individuals supporting and working on Extended Producer Responsibility and Product Stewardship issues.</p> <ul style="list-style-type: none"> • The SBWMA is a CPSC Associate providing an annual sponsorship of \$6,000. • Julia Au is Chair of the CPSC Policy Education and Advisory Committee. • Co-sponsor of SB 289.
California Resource Recovery Association (CRRRA)	<p>A leading non-profit recycling association in California. CRRRA's members include cities, counties, municipal districts, hauling companies, material processors, non-profit organizations, state agencies, and allied professionals.</p> <ul style="list-style-type: none"> • The SBWMA is a Gold-level sponsor of CRRRA’s annual statewide conference and staff are CRRRA members. • Joe La Mariana is a member of CRRRA’s Policy Committee. • Hilary Gans is a co-chair of CRRRA’s California Organics Recycling Council (CORC).
California State Association of Counties (CSAC)	<p>CSAC represents county government before the California Legislature, administrative agencies and the federal government. San Mateo County is an active partner and can tie into SBWMA.</p>

Name of Organization/Agency	Relationship
Californians Against Waste (CAW)	<p>A leading non-profit environmental research and advocacy organization based in Sacramento.</p> <ul style="list-style-type: none"> • The SBWMA provides annual sponsorship of CAW of \$6,500. • Co-sponsor of SB 289
League of California Cities	<p>Association that advocates on behalf of the 500+ cities within the state of California. Nine SBWMA are active partners and can tie into SBWMA.</p>
Northern California Recycling Association (NCRA)	<p>Non-profit membership organization promoting environmentally sound discards management and zero waste initiatives.</p> <ul style="list-style-type: none"> • SBWMA is a Gold-level sponsor of NCRA's annual Recycling Update one-day conference and staff are NCRA members. • Julia Au is a NCRA Board of Directors member.
Recology (corporate)	<p>Collaborate with governmental relations staff at Recology on legislative and regulatory initiatives that support the diversion of resources from landfill disposal and other important issues on recycling, composting, single-use plastic reduction, packaging innovation, and sustainable circular economies.</p>
Republic Services	<p>Collaborate with Republic Services' lobbyists on legislative and regulatory initiatives that support the diversion of resources from landfill disposal and other important issues on recycling, composting, single-use plastic reduction, packaging innovation, and sustainable circular economies.</p>
Resource Recovery Coalition of California	<p>Organization representing 34 California waste companies.</p>
Solid Waste Association of North America (SWANA)	<p>Organization of public and private sector professionals committed to advancing from solid waste management to resource management through education, advocacy and research.</p> <ul style="list-style-type: none"> • Staff are members of the SWANA Gold Rush Chapter (Northern California). • Joe La Mariana is a member of the California Legislative Task Force (LTF) and a past President of NorCal chapter.
StopWaste	<p>Joint Powers Authority in Alameda County governed by the Alameda County Waste Management Authority, the Alameda County Source Reduction and Recycling Board, and the Energy Council.</p>

Name of Organization/Agency	Relationship
Zero Waste Now <i>(Founded by RethinkWaste/EEC)</i>	<p>Coalition of 12 like-minded public agencies in California advocating for zero waste. This group currently represents 94 cities and counties in California (about 20% of total municipalities in state).</p> <p>Current list of Zero Waste Now agencies:</p> <ul style="list-style-type: none"> • Central Contra Costa Solid Waste Authority (RecycleSmart) (6) • Del Norte Solid Waste Management Authority (2) • Mojave Desert and Mountain Recycling Authority (9) • Monterey Regional Waste Management District (8) • SBWMA/RethinkWaste (11) • Salinas Valley Solid Waste Authority (6) • City/County of San Francisco (1) • San Luis Obispo County Integrated Waste Management Authority (8) • Santa Cruz County (4) • StopWaste (17) • Zero Waste Marin (12) • Zero Waste Sonoma (10)