SBWMA SPECIAL LEGISLATIVE COMMITTEE MEETING
Monday, August 23, 2021, at 2:00 p.m.
VIA ZOOM VIDEO OR TELECONFERENCE MEETING ONLY
Link to Join
https://us02web.zoom.us/j/82257704196?pwd=WHFHY3VQSUV6OWNOL2tTejZWeFAwdz09
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/j/82257704196?pwd=WHFHY3VQSUV6OWNOL2tTejZWeFAwdz09 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
4. Approval of Consent Calendar

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
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 the Minutes from the June 25, 2021 Legislative Committee Meeting ACTION p. 11
C. Approval of 2021-2022 Legislative Committee Meeting Calendar ACTION p. 15

5. Old Business: Discussion to Publicly Endorse the California Recycling and Plastic Pollution Reduction Act
   • Presentation and Q&A by Nicole Kurian, Policy Analyst, Californians Against Waste (CAW) p. 19

6. Legislative Updates from Environmental and Energy Consulting (EEC) and Committee Discussion p. 51

7. Legislative Committee Member Comments

8. Adjourn
EXECUTIVE DIRECTOR’S UPDATE

Agenda Item 3 is a verbal report only at the 08/23/2021 SBWMA Legislative Committee Meeting
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

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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:
- The Organics-to-Energy pilot started operating this week.
- Board Member Davina Hurt has been appointed to the California Air Resources Board (CARB)

Executive Director La Mariana also gave a recap of the Board retreat the day prior to this meeting. Member Dehn commented that she felt the retreat and the format was great because everyone was on the same level.

4. 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 2021 Legislative Committee Meeting Calendar

The Committee discussed potential meeting times and dates, the goal is to meet monthly for an hour. Member Rak and Member Dehn agreed that a Friday meeting date worked for them but wanted to make sure that the schedule would work with Member Groom before finalizing the calendar.

No Action taken

5. Election of a Legislative Committee Chair

Executive Director La Mariana gave background noting that Board Member Brownrigg chairs the Zero Waste Committee, and helps staff execute the meetings and takes full ownership as Chair for the discussion.

The committee discussed appointing a chair, both Member Rak and Member Dehn thought that a 3-person committee was too small to appoint a chair but wanted Member Groom's input on the matter. Executive Director La Mariana noted that having a chair to speak up at Board meetings is helpful for Board interaction. The Committee decided to contemplate and wait to the next meeting to make the chair decision.

6. Discussion on Legislative Committee Structure and Goals of Committee

Staff Au asked for the committee’s input on what kind of discussions the legislative committee should have.

Member Dehn commented that she would like to see the notes from the committee recorded. Staff Au answered that the standing committees have minutes, but the ad hoc committee do not have minutes. She would like to see summary notes from these meetings.

Member Rak commented that he also serves on C/CAG legislative committee, they have monthly meetings and have a separate lobbyist. He thought following the C/CAG model of presenting a living document with a list of bills being tracked and whether a position has been taken on the bills would be helpful to review each month. He also would like this committee to meet with members of the legislature Josh Becker and Kevin Mullin and would like to use the meeting time to discuss the SBWMA's priorities, and their priorities and where they might align. The committee agreed that, at each meeting, there would be a summary document noting which bills are being watched, supported, or opposed, and this committee would pre-review the legislative updates that are in the Board packet each month.

Member Dehn asked for a follow up document at the next meeting noting which agencies the SBWMA supports formally with funding, informal support, and partnerships. Staff Au agreed to have that with the next meeting’s agenda. Executive Director La Mariana added that at EEC’s suggestion we have formed a statewide coalition of similar JPA’s throughout the state called Zero Waste Now that has 15-20 JPA members who meet every other month for the purpose of having a louder voice on environmental issues in Sacramento.

7. Discussion to Publicly Endorse the California Recycling and Plastic Pollution Reduction Act of 2022

Staff Au gave background on the ballot initiative about reducing/banning single use plastic and packaging, funded by Recology. There is a fee associated with the ballot measure to fund outreach and education to mitigate this type of plastic pollution. She also noted that there was an attachment in the packet from Counsel Savaree related to public agencies supporting ballot measures, and that it will most likely be on the Fall of 2022 ballot
The committee discussed potential support. Member Dehn is in support but is wondering where that 1 cent charge is going, noting that it would be passed on to the consumer, and with the negative connotation around CRV charges and residents not being able to get that charge back, she was concerned about the fee. She also wondered how broad the bill was in terms of what kind of plastic the bill is trying to address.

Executive Director La Mariana answered that the bill addresses single use non-recyclable plastics. He explained the plastics numbering system set forth by the oil industry and noted that plastics 1 and 2 have strong domestic recyclability markets, plastics 3-7 are the problem. They used to go to China with terrible environmental consequences, and China closed the door on accepting that material. He added that these plastics are the primary component of litter, and are very difficult to handle at solid waste facilities.

Member Rak thought there needs to be clear definitions around how non-recyclable is defined and at some point, the strong plastics industry will argue that all plastics will be banned and then the bill becomes unfattenable. He wondered who defines the market.

Kayla Robinson answered that the measure requires producers to ensure that their products are compostable, recyclable, or reusable by 2030. So, it doesn't ban any type of plastic but rather requires it to be recyclable. It also requires reduction in plastic use by 25% and targets single use plastic packaging and single use plastic foodware. Reed Addis addressed the fee side noting that the fee is at the manufacturer side, not the consumer side, granted, it'll probably filter downstream, but it is an upstream cost.

Reed Addis noted that this is a private initiative and California law states private initiatives can't be on a primary election ballot, so this won't be on the ballot until November 2022.

Member Rak commented that he'd like to spend a little more time on it, read the full language of the proposed ballot initiative, and get Member Groom's opinion before making a recommendation to the Board.

Kayla Robinson noted she would send the full language to the committee before the next meeting so they could be more prepared to discuss.

Executive Director La Mariana suggested asking Christine Wolfe of Recology who wrote the ballot measure to the next legislative committee meeting to answer questions.

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

Reed Addis noted that he and Kayla Robinson have a goal of having this committee share the pain of how difficult the work is in Sacramento, so that when things aren't working as envisioned this committee has a sense of how complicated the process is. Secondly, when he or Kayla mentions legislators' names at these meetings if the committee or other Board colleagues have connection to them use that power mapping to deploy outreach on the JPA’s behalf.

The committee discussed if members of the public would be present at these meetings. Anyone attending the meeting would need to be admitted to the meeting via the waiting room and would be seen on screen. The meetings are also recorded and could be requested through a public records request. The committee agreed as a matter of protocol, if someone from the public has joined the meeting can everyone in the room be informed.

Reed Addis then went over the logistics of the legislative session, noting that the first year of the two-year legislative session is about a third of the way through. He noted that the first year is important because if a bill doesn't survive through the process in the first year there is a chance it could come back in the second. A bill has to go through both houses including all the committees on both sides.
Reed Addis noted there were 4 items to bring up with the committee today:

1) **SB1383 – Organics Waste Diversion Policy.** He noted that there is a piece of legislation put forth by Senator Laird SB 619 that is pushing for modifications, changes, and delays to how SB 1383 should be implemented. He and Kayla Robinson are in discussions with Senator Laird and are working to be part of the process and will put a review document together for this committee to discuss at future meetings.

2) **California State Budget -** California is in a fiscal year that starts July 1, so the legislature is ramping up right now for getting a budget passed. He noted the timing of the budget is that normally the governor put out a budget in January, received the tax receipts in April and then presents an adjusted budget in May based on the tax receipts. He noted that all indications are that there will be surplus dollars available, and the legislature is contemplating spending some of that surplus on one-time projects. Through their work over the last few years and especially last year the senate is signaling that some of those projects will be infrastructure projects that will be useful to RethinkWaste.

3) **Bond -** There is the possibility that a bond could be passed by legislature and then go to voters - either June of next year or November 2022. The idea of getting money in that bond for RethinkWaste will be heavily affected by the May revised budget that will be put forth. He noted that it is possible with the surplus money on the table the legislature may not try to pass a bond this year. He noted that EEC is trying to get into every revenue stream (Bond, budget surplus funds) for RethinkWaste’s interests.

4) **SB 289** – Kayla Robinson noted that SB 289 which is sponsored by RethinkWaste, California Product Stewardship Council and Californians Against Waste would create a producer run recycling and collection program for batteries and embedded batteries at retailers. The goal of this bill is to get lithium-ion batteries out of the waste stream. The bill passed out of Senate Environmental Quality Committee. There will be a hearing Tuesday, April 27 in Senate Judiciary where Joe will give testimony. She noted that they are facing heavy opposition from retailers, battery producers, Cal-chamber, and their big hurdle will be getting the bill passed out of Senate appropriations committee. They are working on amendments to appease the opposition. Reed Addis added that Senator Portantino from Burbank is the chair of Appropriations Committee and asked if any of the committee members or anyone in their networks has a relationship with Senator Portantino because they could use help in getting word to him on how important the battery issue is in the next couple of weeks. Kayla Robinson added that both League of Cities and CSAC are in support of this bill.

Member Rak asked if there is any indication or insight on where Senator Portantino is on this issue. Reed Addis answered that it is too early to tell, however, there was a recent fire in his constituency at a similar facility in the City of Burbank, so there should be some personal constituents with the same issue.

9. **Legislative Committee Member Comments**

Member Dehn asked staff to make certain that a Friday afternoon is a preferable time for Member Groom moving forward.

10. **Adjourn at 3:04pm**
DRAFT MINUTES
SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE LEGISLATIVE COMMITTEE
June 25, 2021 2:00PM
Via Zoom Tele or Video Conference

Call To Order: 2:03PM
1. Roll Call

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SBWMA Staff Members Present: Joe La Mariana, Julia Au, Cyndi Urman
Others Present: Reed Addis, Kayla Robinson, Bridget McKay 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 noted that he gave a pretty robust Executive Director’s report at yesterday’s board meeting, and he didn’t have any additional items that need to be called out.

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
B. Approval of 2021 Legislative Committee Meeting Calendar
Executive Director La Mariana pulled item 4A from the consent calendar noting the meeting minutes needed corrections that would be presented for consideration at the next meeting.

Member Dehn asked staff to go back to Member Groom to see if Fridays still work, noting that they tend to be open for her so she would like to keep the meetings on Fridays if possible. She also asked if July would still be a dark meeting.

Staff Au answered that the legislature is in recess in July which is why there was no Legislative Committee meeting for July, and that staff would reach out to Member Groom and try to find a date and time that would work for everyone’s schedule.

No action was taken.

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

Staff Au noted that in looking back at the notes on this discussion at the last meeting, the committee requested feedback from Member Groom who is absent today and has not yet commented on this item. So, it would be added to the next meeting agenda, and they would ask someone from Recology (a major funder of the ballot initiative) to come and speak to the committee. She noted that the ballot measure hasn’t officially qualified for the November 2022 ballot, but is expected soon.

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

Reed Addis reminded the committee where the state is in the legislative process. July 1 (next week) is the beginning of the fiscal year, and at any moment he was expecting a budget deal for the state. He didn’t think they would know if there would be environmental infrastructure funding in the budget, and he expected most of the money the SBWMA would be interested in would be put off into trailer bills which could continue until the second week in September. On policy bills, there are 3 more weeks for bills to be heard in committee before summer recess. After the recess there will be one month to get the bills through the fiscal committees and off the floor of each house. By mid-October the governor has to act on all the measures in order for them to become law.

He then noted that there are 4 legislative items to highlight:

1) Batteries – Kayla Robinson gave background information on RethinkWaste’s co-sponsorship of SB 289 by Senator Newman. She noted the appropriations committee held the bill which means the bill did not get moved forward and has to start over in January. She also noted that appropriations is a committee where they don’t tell you why the bill got held or what went on. So, she did try to do some behind the scenes digging and found out that it’s likely opposition concerns as opposed to policy concerns. They are now in the process of rethinking the policy language to address some of the retailer concerns. Batteries are still a major issue, so we need to recraft this policy to address those concerns and get opposition to come to the table. She added that one of the ways that they see getting opposition to come to the table is through local ordinances across the state. Very few cities have taken local action, and it can be very effective to have a hodge-podge of local ordinances, then opposition comes to the table to get behind one state law rather than dealing with a multitude of local ordinances. Reed Addis added that since the bill got held, there has been a passionate and frustrated reaction, and he hopes they are fired up enough to invest some political energy with their legislators on the issue.
The committee discussed local ordinances. Member Dehn wondered about the timing of getting ordinances passed before January. Kayla Robinson noted that part of the strategy is just to get them introduced and moving through the process. Member Dehn also wondered if they should be county ordinances or city ordinances and how many would be significant. Kayla Robinson answered that 10 counties would be a great start in one year. Reed Addis added that it doesn’t have to be counties, but 10 is a good initial number to get industry opposition to the negotiation. He also added that having these multiple local ordinances be slightly different is important because then industry opposition sees that they will have all of these different rules to deal with, and a statewide law becomes easier to deal with. Member Rak asked if there were any model ordinances in existence and that he would be willing to introduce the ordinance in San Carlos as the host of the facility. Kayla Robinson noted that EEC is working with California Product Stewardship Council on several versions of ordinances and would work with Member Rak to get him some language examples. Staff Au added that the county would likely use the model of the medicine ordinance so that each individual city doesn’t have to pass their own ordinance. Member Rak asked staff to work through strategy and think about how much pressure and how public the pressure should be on Senator Portantino, chair of the appropriations committee and Senator Atkins, Senate President pro Tem.

2) **Bottle Bill** – Reed Addis gave background on the years long process to modify and tweak the bottle bill. He noted that there is a Senator in the East Bay trying to abolish the bottle bill and turn it into EPR, SB 38. He brought it to the committee for discussion because he thought it would be difficult for the SBWMA to weigh in on. However, if the SBWMA were to weigh in, he suggested opposing the bill to garner points with CalRecycle. EEC is of the opinion to stay out of it, and watch. Member Rak suggested just staying away from this bill and watch. The committee agreed to take a watch approach.

3) **Budget and Trailer Bills** – Reed Addis noted that what they believe the state is going to do on the budget is have $100-200M appropriated pursuant to legislation available for organic waste facility infrastructure, recycling, 1383 implementation, etc. which are known as trailer bills. He added that EEC and this committee will have to be really focused on the advocacy around these trailer bills to have that money appropriated to SBWMA issues. Kayla Robinson added that so far advocacy has included coming to a compromise on a letter that requests $200M for local government to get funding for implementation of SB 1383, and $200M for infrastructure. She did note that the administration has put forth a proposal that doesn’t include funding for local governments, so there is opposition, but they know local funding was a priority in the senate, so they are trying to leverage that support.

4) **SB 619** – Kayla Robinson gave an overview of SB 619 by Senator Laird of Santa Cruz County which delays penalties related to SB 1383 by one year. CalRecycle is uncomfortable with a blanket one year delay and are instead proposing a report and ask for exemption approach. At this point it is unclear how Senator Laird will be moving forward on this. She added that the bill just passed out of committee and is headed to appropriations, and the timeline is tight. She thought there would be a call to action from local governments to support. She also added that Senator Laird has said from the beginning that this bill would be a mechanism to get funding and help local governments with the costs of SB 1383 implementation. RethinkWaste has taken a support in concept on SB 619, and EEC will continue to put pressure on Senator Laird’s office to see where they are headed to determine next steps.

Member Rak suggested a check in in July since there are legislative items that may need action. The committee decided to hold July 9, and check with Member Groom before confirming the next meeting date.

Lastly, Kayla Robinson noted that Rachel Wagoner is up for confirmation vote as the Director of CalRecycle and wondered if EEC could draft a letter on behalf of RethinkWaste in support of that confirmation.
Motion/Second: Rak/Dehn in support of a letter of support for Rachel Wagner’s confirmation.
Roll Call Vote: 2-0-0-1

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

Staff Au noted that the information requested is in the staff report.

8. **Legislative Committee Member Comments**

Member Rak noted that he would like to stay in touch over the recess on some of the items discussed and if any action was needed, and asked EEC to follow up with language on a model ordinance on batteries.

9. **Adjourn: 3:01PM**
STAFF REPORT

To: SBWMA Legislative Committee Members
From: Julia Au, Sr. Outreach, Education and Compliance Manager
Date: August 23, 2021, Legislative Committee Meeting
Subject: Approval of 2021-2022 Legislative Committee Meeting Calendar

Recommendation
It is recommended that the SBWMA Legislative Committee approve a Legislative Committee regular meeting calendar for the remainder of 2021 through 2022.

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 Monday of the month at 2PM for one hour.

Fiscal Impact
There is no fiscal impact associated with approving a regular meeting calendar for 2021-2022. 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 – 2021-2022 Legislative Committee Draft Meeting Calendar
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 Monday of the month from 2:00 pm to 3:00 pm starting in August 2021 unless otherwise noted.

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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 attachments and presentation by
Nicole Kurian, Policy Analyst, Californians Against Waste (CAW)

At the April 23, 2021 and June 25, 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.
**Attachment C** – PowerPoint Presentation by Nicole Kurian, Policy Analyst, CAW - The California Recycling and Plastic Pollution Reduction Act to be presented at the 08/23/2021 Legislative Committee Meeting
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

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.
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/aX3vBoyHJL2khQye9

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@ca recyclers.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.
The California Constitution reserves to the people the right to make some important local policy decisions through the initiative and referendum process. 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.

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. And public agencies may spend money to encourage constituents to register to vote, and to get out to vote.

• 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 voters and transparency requirements intended to ensure that the public has a right to know who is spending what to influence their votes. 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.

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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).


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 (concurrence).
14 Id.
Those that may require further analysis under the “style, tenor and timing” test.\textsuperscript{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.\textsuperscript{16} Another improper activity is using public resources to disseminate advocacy materials prepared by others.\textsuperscript{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.\textsuperscript{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;\textsuperscript{19}
- Preparing impartial staff reports and other analyses to assist decision-makers in determining the impact of the measure and what position to take;\textsuperscript{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;\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.

\textsuperscript{15} Vargas, 46 Cal. 4th at 7, citing Stanson, 17 Cal. 3d at 222 & n. 8.
\textsuperscript{16} Vargas, 46 Cal. 4th at 24, 32, 42.
\textsuperscript{17} Vargas, 46 Cal. 4th at 24, 35.
\textsuperscript{18} Vargas, 46 Cal. 4th at 39 n. 20.
\textsuperscript{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).
\textsuperscript{20} Vargas, 46 Cal. 4th at 36-37.
\textsuperscript{21} Vargas, 46 Cal. 4th at 24-25, 33.
\textsuperscript{22} Vargas, 46 Cal. 4th at 25, 36, citing Stanson, 17 Cal. 3d at 221.
\textsuperscript{23} Vargas, 46 Cal. 4th at 7, 30, 40.
\textsuperscript{24} Vargas, 46 Cal. 4th at 34, 40 (compare with the tone of the newsletter described in footnote 20).
\textsuperscript{25} Vargas, 46 Cal. 4th at 40.
Improper use of public resources is a crime.\textsuperscript{26} Criminal penalties include a two- to four-year state prison term and permanent disqualification from public office.\textsuperscript{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.\textsuperscript{28} Other consequences may include having to reimburse the agency for the value of the resources used.\textsuperscript{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.\textsuperscript{30}

In addition, conflicting perspectives on whether there might be a “\textit{de minimus}” defense makes relying on such a defense risky.\textsuperscript{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.\textsuperscript{32} Failure to comply with these requirements subjects an agency to additional penalties.\textsuperscript{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.

\textbf{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.

\begin{itemize}
\item \textsuperscript{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). \textit{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).}
\item Cal. Penal Code § 424.
\item Cal. Gov't Code § 8314(c)(1).
\item 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"). \textit{See also Harvey v. County of Butte, 203 Cal. App. 3d 714, 719 (1988).}
\item See generally Tenwolde v. County of San Diego, 14 Cal. App. 4th 1083 (4th Dist. 1993), rev. denied.
\item 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]). \textit{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).}
\item 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).
\item See, for example, Cal. Gov't Code §§ 83116, 91001(b), 91000(a), 91001.5, 91002, 91004, 91005, 91012.
\end{itemize}
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. 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.

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.

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

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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 transportation\textsuperscript{38} and the agency was following the prescribed steps for putting a measure before the voters (which included such activities as preparing a transportation plan).\textsuperscript{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.\textsuperscript{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 \textit{governing} and the expenditure of funds for election \textit{campaigning}.\textsuperscript{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.\textsuperscript{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.”\textsuperscript{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.\textsuperscript{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. \textbf{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

\textsuperscript{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).

\textsuperscript{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).

\textsuperscript{40} See Santa Barbara County Coal. Against Auto. Subsidies, 167 Cal. App. 4th at 1240.

\textsuperscript{41} See Santa Barbara County Coal. Against Auto. Subsidies, 167 Cal. App. 4th at 1241.

\textsuperscript{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.”)

\textsuperscript{43} League of Women Voters, 203 Cal. App. 3d at 554.

\textsuperscript{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. The Attorney General based his analysis on a court of appeal case that allowed pre-qualification activities, noting that the audience for such activities is not the electorate.

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. 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. 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 record subject to disclosure upon request to anyone under California's Public Records Act.

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;

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.")
50 See Cal. Govt' 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.").
Communications planning;

Community outreach activities;

Informational direct mail program;

Creating an informational speakers bureau; and

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.\(^\text{52}\)

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.\(^\text{53}\) 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.\(^\text{54}\)

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.\(^\text{55}\) 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.\(^\text{56}\) 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).


\(^{54}\) 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.\footnote{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).}

**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."\footnote{73 Ops. Cal. Att'y Gen. 255 (1990).} 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.\footnote{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).}

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**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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The California Recycling and Plastic Pollution Reduction Act

Nicole Kurian, Policy Analyst
Californians Against Waste

8 MILLION tons of plastic enter the ocean each year globally
SB 54/AB 1080

LEGISLATURE NARROWLY REJECTS NATION'S TOUGHEST RESTRICTIONS ON PLASTICS

POLITICO

SUSTAINABILITY
If California won't enact a plastic waste overhaul, will anyone?
Environmentalists have pinned their hopes on the nation's most populous state ever since China rejected American recyclables two years ago.
SB 343 (Allen)
Chasing arrows (the "recycling symbol") can't be used on products that aren't truly recyclable.

AB 881 (Gonzalez)
Exports of mixed plastics no longer eligible to count towards diversion goals

AB 1201 (Ting)
Limits compostable products by requiring 3rd-party certification, organic eligibility, & clear labeling, as well as prohibiting PFAS.

AB 1371 (Friedman)
Bans unrecyclable e-commerce packaging, such as plastic envelopes, packing peanuts, and "sealed air" pouches.

AB 962 (Kamlager)
Allows returnable ("refillable") bottles to be eligible for payments under the "Bottle Bill" program when they are washed and reused.

AB 1276 (Carillo)
Take-out accessories (like utensils, stirrers, condiments) only provided if asked for by the customer.
Scientists estimate that there will be more plastic than fish in the ocean by 2050.
ONLY 9% of single-use plastic is recycled
Microplastic has been discovered in the mountains of Colorado
It’s in our food, salt, beer and water
We have a choice

We can do better than plastic. We can set the strongest regulations on disposable plastics in the country.

→ We can ban Styrofoam.

→ We can shift the market to make better materials that are truly compostable and recyclable.
We can send a strong signal and shift the market away from petrochemicals by placing an up to 1 cent fee on plastic packaging and single use foodware.
It is estimated to generate $1B - $3B annually.
Investing in a Circular Economy, Resilient Environment, and Healthy Communities

Up to $0.01 per item (or component) of packaging, based on net cost of recycling

**CalRecycle 50%**
Investing in recycling, composting, and reuse infrastructure, as well funding for regenerative farming practices, and food waste prevention.

**Natural Resources Agency 30%**
Restoration and protection of the state’s waterways and coastal ecosystems, protection of fish and wildlife, and funding for parks.

**Local Governments 20%**
Protecting local drinking water, preventing and cleaning up impacts of plastic pollution, improving local recycling and composting programs, and providing education and outreach.
By placing a fee on all single use plastic items sold in California we can:

- Help communities that have been disproportionately impacted by toxic industries recover their health and economies

- Make it possible for farmers to grow more nutritious food with less pesticides without more cost to the consumer

- Clean up the trash on our beaches and in our rivers

- Keep our parks and open spaces healthy in the face of climate change

- Build more compost and recycling facilities in California to grow jobs and so we don't leave a mess for our children
Please join us by endorsing this measure.

bit.ly/plasticsendorse
Our Partners

Heal the Bay

Good for the Economy. Good for the Environment.

Zero Waste USA

Californians Against Waste

UPSTREAM

Real-Change Starts at the Source

OCEANA

Protecting the World's Oceans

5 GYRES

Science to Solutions

alter eco

#PlasticsFreeCA
Contact

Nicole Kurian
nicole@cawrecycles.org
cawrecycles.org @cawrecycles
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: August 23, 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. The last day for the Appropriations Committees to meet and report bills is August 27, while September 10 is the last day to pass a bill.

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 August 11, 2021
**RethinkWaste Legislative Update**  
**Wednesday, August 11, 2021**

### 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.

**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.

**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

**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

**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.
**SB 289**

**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

**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.

**Notes:** Support letter submitted.

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**SB 343**

**Environmental advertising: recycling symbol.**

**Status:** 7/8/2021-Read second time and amended. Re-referred to Com. on APPR.

**Location:** 7/6/2021-A. APPR.

**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.

**Notes:** Sign-on support letter submitted.

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**SB 619**

**Organic waste: reduction regulations.**

**Status:** 6/23/2021-From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 0.) (June 23). Re-referred to Com. on APPR.

**Location:** 6/23/2021-A. APPR.

**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.

**Notes:** Position letter submitted.

**Organization**

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**AB 332**

**Hazardous waste: treated wood waste: management standards.**

**Status:** 7/15/2021-From committee: Be ordered to second reading file pursuant to Senate Rule 28.8
and ordered to Consent Calendar.

**Location:** 7/15/2021-S. CONSENT CALENDAR

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**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

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**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 thermoform recycled plastic: commingled rates.**

**Status:** 7/21/2021-In committee: Set, first hearing. Hearing canceled at the request of author.

**Location:** 7/14/2021-S. APPR.

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**Summary:** Would, on and after January 1, 2024, would require the total thermoform plastic containers, as defined, sold by a producer, as defined, or purchased in a certain quantity, in the state to contain, on average, specified amounts of postconsumer thermoform recycled plastic, as defined, per year pursuant to a tiered plan that would require the total thermoform plastic containers to contain, on average, and depending on the recycling rate, no less than 20% or 30% postconsumer recycled plastic per year on and after June 1, 2030. The bill would exclude a person or company that produces, harvests, and packages an agricultural commodity on the site where the commodity is grown or raised from this requirement.

**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

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**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.

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**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

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**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.

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**AB 818** (Bloom D) Solid waste: premoistened nonwoven disposable wipes.

**Status:** 7/15/2021-From committee: Be ordered to second reading file pursuant to Senate Rule 28.8 and ordered to Consent Calendar.

**Location:** 7/15/2021-S. CONSENT CALENDAR

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**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.

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**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

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**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.

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**AB 962**  
*(Kamlager D)*  
**California Beverage Container Recycling and Litter Reduction Act: returnable beverage containers.**  
**Status:** 7/15/2021-In committee: Referred to suspense file.  
**Location:** 7/15/2021-S. APPR. SUSPENSE FILE  

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 | Support | Medium  

**Notes:** Sign-on support letter submitted.

**AB 1086**  
*(Aguiar-Curry D)*  
**Organic waste: implementation strategy: report.**  
**Status:** 7/8/2021-Withdrawn from committee. Re-referred to Com. on APPR.  
**Location:** 7/8/2021-S. APPR.  

Calendar: 8/16/2021 9 a.m. - John L. Burton Hearing Room (4203)  
SENATE APPROPRIATIONS, PORTANTINO, Chair  

Summary: Would request that the California Council on Science and Technology, in consultation with its academic and research partners and specified state agencies, undertake and, within 12 months of entering into a contract, complete 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. If the council agrees to undertake and complete the report, the bill would require the council to provide the report to the relevant state agencies after peer review in order for one or more of the relevant state agencies to conduct at least one public meeting and publish the draft implementation strategy on its internet website. The bill would also require the council, if it agrees to undertake and complete the report, to submit the report to the Legislature. 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**  
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RethinkWaste | Support | Medium  

**Notes:** Support letter submitted.

**AB 1276**  
*(Carrillo D)*  
**Single-use food accessories.**  
**Status:** 7/8/2021-From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 0.) (July 8). Re-referred to Com. on APPR.  
**Location:** 7/8/2021-S. APPR.  

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**  
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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  

Summary: Would prohibit the sale or offer for sale, or provide or give away as a premium, sample, or gift, with purchase or as a separate item, to a consumer, of any single-use food package, carrying bag, or container, as defined, unless specified conditions are met. The bill would require a restaurant to ask the customer whether they want a single-use food package, carrying bag, or container, as defined, at the time of the order, unless the customer specifies that they do not want a single-use food package, carrying bag, or container, as defined, at the time of the order. 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 packages, carrying bags, or containers, as defined. The bill would exclude from these requirements correctional institutions, health care facilities, residential care facilities, and public and private school cafeterias.
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
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RethinkWaste | Watch | Medium

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

Status: 7/5/2021-In committee: Hearing postponed by committee.

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

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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 adjacent unserved supermarket-based zones based on specified factors. The bill would require the department to certify bag drop redemption programs, as defined, and dealers under certain conditions and would require those certified entities to be eligible for handling fees and processing payments, as provided, thereby making an appropriation.

Organization | Position | Priority
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RethinkWaste | Watch | Medium

**SB 38** (Wieckowski D) Beverage containers.

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was NAT. RES. on 6/10/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-A. 2 YEAR

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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
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RethinkWaste | Watch | Medium

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

Status: 7/7/2021-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 11. Noes 0.) (July 7). Re-referred to Com. on APPR.

Location: 7/7/2021-A. APPR.

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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
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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

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.

Status: 7/15/2021-From committee: Be ordered to second reading file pursuant to Senate Rule 28.8 and ordered to Consent Calendar.
Location: 7/15/2021-S. CONSENT CALENDAR

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: 7/21/2021-In committee: Set, first hearing. Hearing canceled at the request of author.
Location: 7/7/2021-S. APPR.

Summary: Would prohibit a person from offering for sale a plastic product that is labeled as “compostable” or “home compostable” unless, at the time of sale or offering for sale, the plastic product meets that specified specification or has that specified certification and would additionally prohibit a person from offering for sale a plastic product that is labeled as “biodegradable,” “degradable,” or “decomposable,” unless the plastic product meets one of those specified standards relating to environmental marketing claims. The bill would additionally authorize a person to offer for sale commercial agricultural mulch film labeled with the term “soil biodegradable” if the department adopts that specification and the film has that certification.

Organization Position Priority
RethinkWaste Support Strategic

Notes: Sign-on support letter submitted.