

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

SUBJECT: SEE BELOW

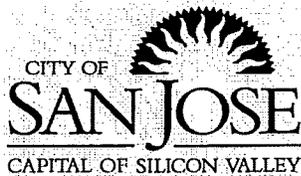
DATE: 04-23-09

**SUBJECT: AB 68 (BROWNLEY) – SOLID WASTE: SINGLE-USE BAGS AND
AB 87 (DAVIES) – SINGLE-USE CARRYOUT BAGS:
ENVIRONMENTAL EFFECT: MITIGATION**

RECOMMENDATION

As referred by the Rules and Open Government Committee on April 15, 2009 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, consider a position of support for AB 68 (Brownley) – Solid Waste: Single-Use Bags and AB 87 (Davies) – Single-Use Carryout Bags: Environmental Effect: Mitigation.





Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 04-08-09

Approved

Date

4/9/09

**SUBJECT: AB 68 (BROWNLEY) – SOLID WASTE: SINGLE-USE BAGS AND
AB 87 (DAVIES) SINGLE-USE CARRYOUT BAGS: ENVIRONMENTAL
EFFECT: MITIGATION**

RECOMMENDATION

It is recommended that City Council support both California Assembly Bills 68 (Brownley) and 87 (Davis), with amendments to limit preemption language currently included in AB 87 and to allow broader requirements for specific significant performance targets for reducing single-use carryout bags.

OUTCOME

Providing the Rules and Open Government Committee and the Mayor and City Council accept staff's recommendation, the City lobbyist could begin seeking support for AB 68 (Brownley) and AB 87 (Davis).

BACKGROUND

Californians use approximately 19 billion plastic bags annually, with 490 million of those estimated to be distributed in San Jose alone. Many plastic bags end up as litter in streets and streams. Plastic bags are responsible for significant negative environmental impacts and preferable alternatives are readily available and currently in use. Public education efforts by hundreds of cities, government agencies, and non-profit organizations have proven ineffective in significantly reducing the use of single-use carryout bags or the frequency with which they are littered. Although San Jose has included the recycling of plastic bags in its programs for over fifteen years, this strategy has proven to be ineffective, with low recycling rates and high contamination levels. Only 1% - 4% of the plastic grocery and merchandise bags used annually in the State of California are recycled. That means that nearly 600 bags per second are discarded in California-destined either for the landfill, local public areas as litter, or our marine

environment. The most effective means to reduce the use of plastic bags is limiting their distribution at the point of sale. Various jurisdictions across the U.S. and the world are considering actions to reduce single-use bags, including bans, fees and recycling mandates.

Local governments are incurring significant costs attempting to deal with litter. Because the City, County, and State have not been able to reduce litter generation and accumulation in local streams to an acceptable level, the City may face millions of dollars in required physical improvements to the stormwater system to reduce the accumulation of litter, including plastic bags. One study conducted by San Francisco concluded that every plastic bag costs the city over 20 cents in hidden cleanup expenses.

Both bills, AB 68 and AB 87 would put a fee on all single-use carryout bags which can be avoided by consumers by using reusable bags. A similar approach in Ireland reduced plastic bag usage by over 90%. Consumers are currently paying for the economic impacts of bags in three ways: first, in the form of increased retail costs to pay for the bags; second, in local government fees and taxes to mitigate litter, including regulatory programs; and finally, in higher garbage rates to process and dispose of plastic bags.

In 2008, Council supported AB 2058 (Levine) which would have required California retailers to demonstrate a 70% plastic bag recycling level by 2011 if they wished to continue freely distributing bags. If the 70% recycling level was not met, retailers would have been required to charge a 25 cent per-bag fee. The law also granted local governments increased authority to charge additional fees.

ANALYSIS

Fact sheets and analyses of AB 68 and AB 87 are attached.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

04-08-09

Subject: AB 68 (Brownley) & AB 87 (Davis) -Offsetting the Cost of Single-Use Bag Litter

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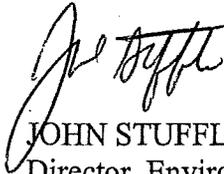
These legislative items do not meet any of the above criteria.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the Office of Economic Development, the City's Office of Intergovernmental Relations, and the City's Legislative Representative in Sacramento.

POLICY ALIGNMENT

The attached fact sheets and analyses are consistent with the Council-adopted 2008 Legislative Guiding Principles, and the City's Green Vision, Urban Environmental Accords, and Zero Waste goals.



JOHN STUFFLEBEAN
Director, Environmental Services

For questions, please contact Jo Zientek, Deputy Director, Integrated Waste Management, at (408) 535-8557.

Attachment: Fact Sheet and Analysis of AB 68 and AB 87.

Attachment

AB 68 (Brownley) & AB 87 (Davis)
OFFSETTING THE COSTS OF SINGLE-USE BAG LITTER

What's the issue the bills are trying to resolve?

Plastic bags are among the most-often littered items in urban areas. Plastic bags are responsible for substantial resource use and, because of their low recycling rates, impacts to the local environment, the marine environment and to our landfills. Current legislation, AB 2449, only addresses plastic bag recycling, and prohibits fees being imposed on stores that distribute plastic bags. AB 2449 requires certain large supermarkets and pharmacies in California to provide at-store recycling of plastic carryout bags, but the rates for plastic bag recycling have remained low, around 1-4%. Additionally, some jurisdictions have banned plastic bags, resulting in consumers switching to paper bags, a product which also can negatively impact the environment.

How would the passage of these bills affect San Jose?

The passage of these bills would require that consumers pay a \$0.25 fee for single-use bags distributed at large grocery stores, pharmacies and convenience stores. With this fee, Assembly Bills 68 and 87 provide the economic incentive to move consumers away from plastic and paper single-use carryout bags, and towards reusable bags. A Bag Pollution Fund would be established, and stores would remit a portion of the fee. AB 68 and AB 87 would create a level playing field for all cities attempting to reduce wasteful bag distribution and litter and create a more uniform approach for industry to implement by distributing funds on a per capita basis. These funds would offset the environmental costs associated with single-use carryout bags litter, reduce the littering of plastic bags, and incentivize the use of reusable bags. The bills would potentially reduce costs to consumers through grocery bills and taxes by decreasing bag usage and providing local governments with money to fight litter.

Both bills would prevent cities and counties that ban single-use bags from being eligible for this funding. AB 68 and 87 only require large grocery stores, supermarkets and pharmacies to charge a customer fee for single-use bags. However, AB 87 builds on an existing provision (Public Resource Code § 42251(b)) for other retail establishments that choose to adopt an at-store plastic recycling program by also exempting these stores from local regulations that would impose additional requirements including a fee on single-use carryout bags. Under AB87, San Jose would only be able to impose a fee on stores that are not in compliance with state law. AB68 would preempt local agencies from imposing a single-use bag fee only on the stores that are required to charge a fee under state law.

AB 68 and 87 support Council direction to implement San Jose's Green Vision, Urban Environmental Accords and Zero Waste goals.

What is staff's Proposed Position?

Staff recommends that the City support both AB 68 and AB 87 with amendments. Staff supports AB 68 with the amendment that local agencies would not be preempted from imposing a single-use bag fee on all stores which use them. Staff recommends support of AB 87 with the amendment that San Jose would be able to impose a fee on all stores, regardless of compliance with AB 2449.

It is expected that these two bills will be merged in the future. Staff recommends limitations on preemption language currently included in AB 87, and broader requirements for specific significant performance targets for reducing single-use carryout bags.

Who are the bill's supporters and opponents?

Supporters.

Californians Against Waste

Opposition.

Statements of opposition have not yet been submitted.

What is the current status of the measure?

AB 68 and AB 87: Scheduled to be heard in Assembly Natural Resources Committee April 13, 2009.