



COUNCIL AGENDA: 04-20-10
ITEM: 2.8

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

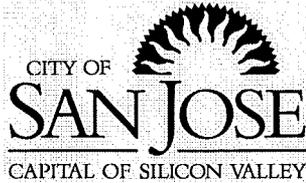
FROM: Lee Price, MMC
City Clerk

SUBJECT: AB 1998 (BROWNLEY) - PLASTIC
AND PAPER CARRYOUT BAGS

DATE: 04-08-10

RECOMMENDATION

As recommended by the Rules and Open Government Committee and outlined in the attached memo previously submitted to the Rules and Open Government Committee, adopt a position of support, with amendments, for AB 1998 (Brownley)



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 03-30-10

Approved

Date 4/2/10

**SUBJECT: ASSEMBLY BILL 1998 (BROWNLEY) – PLASTIC AND PAPER
CARRYOUT BAGS.**

RECOMMENDATION

It is recommended that City Council support California Assembly Bill 1998 (Brownley).

OUTCOME

The City's support for AB 1998 (Brownley) would facilitate the adoption of legislation to implement a state-wide program to significantly reduce single-use carryout bags in California. Providing the Rules and Open Government Committee and the City Council accept staff's recommendation, the City lobbyist could begin seeking support for AB 1998 (Brownley).

BACKGROUND

On September 22, 2009, Council considered several recommendations related to reduction of single-use carryout bags. Council directed staff to return to Council with an ordinance to prohibit the use of both paper and plastic single-use carryout bags following completion of environmental review and other tasks. The ordinance is to include an exemption for paper bags with a recycled content of at least 40 percent, with a retail charge of 10 to 25 cents per bag if appropriate. It is expected that the Draft Environmental Impact Report will be circulated for public comment in May and that a draft ordinance will be presented to Council in September. Council also directed staff to continue to support legislation that would implement a state-wide program to significantly reduce single-use carryout bags.

Council had previously approved a position of support with amendments for both AB 68 (Brownley) and AB 87 (Davies), which would have established fees on both paper and plastic carry out bags. Staff was directed to bring back an update including clarification on how funds generated by the bills could be spent. Both bills have since died. AB 1998 more closely parallels Council's current direction regarding a City ordinance, banning plastic bags as well as paper bags made of virgin fiber, allowing paper bags with a minimum recycled content of 40

percent subject to a 25-cent fee, making specific provisions regarding the expenditure of the funds generated by the fee, and requiring that a report on the effectiveness of the program be submitted to the legislature by January 1, 2015.

ANALYSIS

A fact sheet and analysis of AB 1998 is 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)**

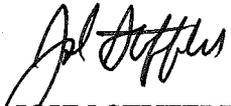
This legislative item does not meet any of the above criteria.

COORDINATION

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

POLICY ALIGNMENT

The attached analysis is consistent with the Council-adopted 2009 Legislative Guiding Principles, and the Council-adopted guidelines.


JOHN STUFFLEBEAN
Director, Environmental Service

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

♦ Attachment: Fact Sheet and Analysis of AB 1998

Attachment

AB 1998 (Brownley)
RECYCLING: PLASTIC AND PAPER CARRYOUT BAGS.

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

Plastic bags are among the most-often littered items in urban areas, resulting in significant impacts to the environment, including developed areas, parks and open spaces, riparian habitats, and the marine environment. Only 5 percent of plastic carryout bags are recycled and the rest either take up valuable landfill space or are discarded into the environment. Plastic bags are responsible for substantial resource use and, in part because of their low recycling rates, for the waste of those resources. Despite a much higher recycling rate, paper bags consume significant resources as well, especially if the paper is made from virgin materials. Paper bags may have a greater impact per bag on climate change than plastic bags, if bags are disposed of in landfills where they may generate methane. Current law, AB 2449, only partly addresses plastic bag recycling, and it prohibits local fees on stores that distribute plastic bags. AB 2449 requires certain large supermarkets and drugstores in California to offer reusable bags for sale and to provide at-store recycling of plastic carryout bags, but the use of reusable bags and rates for plastic bag recycling have remained low. Additionally, some jurisdictions have banned plastic bags alone, leading to increased use of paper bags.

How would the passage of this bill affect San Jose?

The passage of this bill would make the at-store recycling program requirements of AB 2449 inoperative on July 1, 2011, and would repeal them on January 1, 2012. It would instead, on and after July 1, 2011, prohibit a store (defined to include chain convenience stores with a total cumulative square footage of 10,000 square feet or more in addition to the supermarkets and drugstores covered by AB 2449) from providing a plastic carryout bag to a customer. The bill would require a store, on and after July 1, 2011, that provides carryout bags at the point of sale, to either make reusable bags available for purchase by the customer or provide a paper carryout bag that is subject to the green bag fee that would be imposed by the bill. Small retail shops and any retail establishments that do not sell groceries would be excluded.

The bill would require a store to charge a green bag fee of not less than \$0.25 for each paper carryout bag distributed at the point of sale. The bill would establish the Paper Bag Pollution Cleanup Fund in the State Treasury and would require a store to remit these fees, less a specified amount (five cents per bag), to the State Board of Equalization for deposit in that fund.

The moneys in the fund would be required to be expended, upon appropriation by the Legislature, in a specified order of priority, by the department for grants to cities and counties for programs related to paper carryout bags and reusable bag giveaway programs (80%), by the department, in consultation with specified state agencies, to develop and implement specified programs related to paper carryout bags (14%), by the State Board of Equalization to reimburse its costs associated with collecting the green bag fees (3%), and by the department for purposes of implementing the bill's provisions (3%). The bill would expressly prohibit the expenditure of revenues from the fund for activities unrelated to the prevention or reduction of paper carryout bag pollution.

The bill would require the department to submit a report to the Legislature by January 1, 2015, regarding the effectiveness of the bill's provisions and recommendations to further encourage the use of reusable bags.

The plastic bag ban and the fee established by AB 1998 would provide the economic incentive to move consumers away from plastic and paper single-use carryout bags, and towards reusable bags. 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.

AB 1998 supports 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 AB 1998.

Who are the bill's supporters and opponents?

Positions identified on organization websites and by the author's office on March 26, 2010, were as follows:

Supporters.

AFSCME
Californians Against Waste
City and County of San Francisco
Heal the Bay

Opposition.

California Independent Grocers Association
CalTax

What is the current status of the measure?

Scheduled to be heard in Assembly Natural Resources Committee April 12, 2010.