



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: John Stufflebean

SUBJECT: SB 966 (SIMITIAN AND KUEHL)
PHARMACEUTICAL DRUG
DISPOSAL

DATE: 05-22-07

Approved

Deanna Antine

Date

5/23/07

RECOMMENDATION

1. Support Senate Bill 966, Pharmaceutical Drug Disposal;
2. Authorize a letter of support to Senators Simitian and Kuehl; and
3. Authorize Environmental Services staff to participate as technical resources during the development of future legislation on pharmaceutical or drug disposal.

OUTCOME

The City supports passage of this legislation to provide for convenient, environmentally preferred disposal of pharmaceutical drugs that would remove sources of pharmaceuticals from solid waste landfills or wastewater that passes through the wastewater treatment plant and discharges to the South San Francisco Bay.

BACKGROUND

Currently, residents do not have a convenient, environmentally friendly method to dispose of their unwanted pharmaceuticals. SB 966 is intended to establish a convenient pharmaceutical disposal system that would reduce the release of pharmaceuticals into the environment. Such a program could ensure that these medicines are no longer disposed of as solid waste going to landfill or flushed into the sanitary sewer system - an important goal of the City as co-owner and operator the San José/Santa Clara Water Pollution Control Plant (Plant).

Pharmaceuticals and their metabolites are continually introduced to aquatic environments via a number of routes including the discharge of treated domestic wastewater. There is increasing concern that the pharmaceuticals detected in surface waters may cause adverse environmental effects including endocrine disruption in aquatic life and/or increased antibiotic resistance.

This bill would require retailers of pharmaceutical drugs, as defined, on and after July 1, 2008, to have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal that includes specified elements.

ANALYSIS

This legislation supports the Environmental Services Department's pollution prevention plan to reduce the amount of pharmaceuticals entering the Plant. In 2006, the Bay Area Pollution Prevention Group (BAPPG) piloted a regional collection project for residential pharmaceutical waste. Throughout the Bay Area, more than 1,500 residents disposed of over 3,000 lbs. of pharmaceutical waste at 39 locations. At the three City disposal locations, over 800 lbs. of pharmaceutical waste were collected. Currently, residents are being directed to the Santa Clara County Household Hazardous Waste program for disposal of unwanted pharmaceuticals.

The legislation proposes that retailers be required to provide a system for the acceptance and collection of drugs sold by the retailer at no cost to the consumer. The retailer would also be responsible for providing outreach materials, including internet websites or informational material packaged with the drug, that provide consumers access to information about additional opportunities and locations for no-cost drug disposal.

Retailers may participate in an existing pharmaceutical drug take-back system if the system complies with the requirements of the legislation. This means that retailers would have the option to participate in the County's Household Hazardous Waste Program in lieu of developing their own program if the Household Hazardous Waste program meets the requirements of the legislation. This provides the opportunity for a more extensive regional program meeting the City's pollution prevention goal but funded in part by the retailers of pharmaceutical drugs, and not only by local government. The California Retailers Association has stated concerns that although its members agree with the goal of this legislation there remain substantial concerns regarding the burdens that would be imposed on pharmacies by an unfunded mandate. They might not be able to support the administrative, personnel, time, and cost demands that would be imposed by this bill. The City could work collaboratively with local retailers to utilize existing pollution prevention outreach materials and regional pharmaceutical disposal efforts to help retailers meet the new program requirements.

Without such legislation, the City will have to either: 1) develop and fund pharmaceutical disposal efforts and outreach on its own, or; 2) participate in a regional collaborative such as the 2006 residential pharmaceutical take-back event. Both alternatives require the City, instead of the retailer, to fund some type of take-back system. Pharmaceutical metabolites in wastewater are not currently regulated but are on the list of emerging contaminants of concern and will be addressed by regulators in the near future. Local legislators have contacted Environmental Services staff in the past to provide technical expertise in developing such environmental

legislation. City staff would like to actively participate to help ensure that the best technical information is available to legislators and that the City's concerns are considered. Staff would follow existing legislative priorities and policies and provide regular updates to the City Manager's office and Rules Committee when participating in such efforts.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the Office of Economic Development and the City's Sacramento Legislative Representative and the Intergovernmental Relations Director. The Office of Economic Development would like to take a neutral position. The San José/Silicon Valley Chamber of Commerce was notified twice of the recommended position. Discussion with the Chamber was not successful; the contact was not available for comment.



JOHN STUFFLEBEAN
Director, Environmental Services

For questions please contact Karen McDonough, Environmental Services Specialist,
at 408-975-2592.

Attachment: SB 966 Pharmaceutical Drug Disposal

SB 966 Pharmaceutical Drug Disposal

What issue would the legislation try to address?

Currently residents do not have an environmentally preferable method of disposing of unwanted pharmaceuticals. The pharmaceuticals are either disposed of down the sink or toilet or thrown away in the garbage. These pharmaceuticals then make their way to the wastewater treatment plant that was not designed to remove these compounds or to landfill.

Pharmaceuticals and their metabolites are continually introduced to aquatic environments via a number of routes including the discharge of treated domestic wastewater. There is increasing concern that the pharmaceuticals detected in surface waters may cause adverse environmental effects including endocrine disruption in aquatic life and/or increased antibiotic resistance. Regulatory agencies are currently looking at strategies to potentially regulate these pollutants, which could increase costs for San José for pollution prevention and/or treatment.

How would this legislation resolve the issue?

First, it requires that retailers of pharmaceutical drugs, on and after July 1, 2008, have in place a system, at no cost to the consumer, for the acceptance and collection of pharmaceutical drugs for proper disposal.

Second, waste pharmaceuticals are an issue of interest in the San Francisco Bay area since the Bay is such an important resource to the community. Millions of dollars and many years of work have been devoted to restoring the Bay to a healthy diverse ecosystem. This legislation would require an environmentally preferable disposal method and place the responsibility for funding a pharmaceutical disposal program on retailers, not the City.

This bill would also require retailers to provide information to their customers about proper disposal options for their unused or unwanted medications.

How would the passage of this bill affect San José?

Without this program, the City, may in the future, have to expend additional staff time and resources to address pollution prevention and/or treatment for pharmaceutical pollutants. If additional wastewater treatment is required in the future, the resources would be very significant. With passage of the bill, the City would not have to take the lead on funding and managing a take-back program but would work collaboratively with retailers in the area to ensure that their systems meet the City's desired pollution prevention goals. The City can help retailers utilize existing local or regional pollution

prevention programs including the significant regional outreach programs. The City would provide support as appropriate.

Staff's Recommended Position

Support SB 966 and direct staff to send a letter of support to Senators Simitian and Kuehl. This legislation is consistent with the 2007 Guiding Principal to support legislation and policies that promote sustainable development; that improve environmental standards and the regulatory process.

Also supported by:

- League of California Cities
- The American Federation of State, County and Municipal Employees
- California Association of Sanitation Agencies
- Californians Against Waste
- Sierra Club California

Against:

- California Grocers Association
- California Retailers Association
- Rite Aid

What is the current status of the measure?

Active, as of May 17, 2007, a motion to reconsider was made by Senator Simitian. Reconsideration granted. The bill has been amended and placed on a third reading.