

Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 09-16-09

Approved

Date

9/19/09

**SUBJECT: SB 402 (WOLK) RECYCLING: BEVERAGE CONTAINERS:
REDEMPTION PAYMENTS AND RESTORATION OF FUNDING**

RECOMMENDATION

It is recommended that:

1. The City Council support SB 402 (Wolk); and
2. The Committee provide a one-week turnaround for Mayor and City Council review.

OUTCOME

The City's support of SB 402 (Wolk) would facilitate the adoption of legislation that would reverse most of the reductions in payments from the California Beverage Container Recycling Fund due to the current State Budget. Restoring these funds would mitigate the severe impacts on recycling programs in San Jose and many other cities and counties.

BACKGROUND

The California Beverage Container Recycling and Litter Reduction Act (AB 2020 of 1987, or the "Bottle Bill") requires distributors to pay the Department of Conservation (DOC) the California Redemption Value (CRV) and processing fees for certain containers. These payments are placed in the California Beverage Container Recycling Fund (Fund) which is used to pay refund values and processing fees to consumers, recycling centers, and curbside recycling programs. Funds not spent for these purposes can be used for grants to promote recycling and litter abatement.

SB 402 would, in part, increase the number of plastic bottles eligible for redemption and increase the redemption value for most single-serve glass and plastic containers. SB 402 is consistent with the following 2009 Legislative Guiding Principles:

Protect and Increase Local Funding; No Unfunded Mandates

7. Support policies that incorporate the costs of recycling, and disposal of products and materials to producers and users...

Promote Livability, Sustainable Development, and Environmental Protection

2. Enacts Extended Producer Responsibility (EPR) statewide and nationally.
3. Protect the environment through conservation and, preservation of natural resources, habitat, and improving the health of local watersheds.
9. Support Source Reduction and increased recycling and composting in order to achieve Zero Waste.

Moreover, one of Council's 2009 Legislative Priorities is to increase the Department of Conservation grants for recycling and litter abatement. Approval of SB 402 would help ensure that sufficient funds remain in the unredeemed recycling deposits so that funding for core recycling programs can continue.

In June 2009, as a result of increased beverage container recycling and CRV payouts and the decision to "borrow" much of the balance in the Fund to help solve the State's budget shortfall, the Fund was headed toward insolvency. The DOC announced that most payments from the Fund other than CRV returned to recyclers would be stopped or cut significantly.

San Jose's annual funding from the City/County Payment Program was cut 85%, from \$255,000 to \$38,000. These funds have been used to start and maintain recycling programs that cannot be funded with residential user fees, such as parks recycling, large event recycling, and the Go Green Schools Program. The City has limited alternative funding sources to maintain some of these programs or to continue efforts to increase recycling away from home.

The annual grant to the San Jose Conservation Corps was first cut from \$1.6 million to \$243,000 in DOC's proportional reduction, and then partially restored in the final budget. The loss of more than \$1 million in funding has already resulted in the elimination of local recycling services provided by the Corps and in layoffs of Corps members and other staff.

The proportional reductions in curbside supplemental payments and other incentive payments, combined with reductions in processing fees and other market-based support, could reduce total compensation of San Jose's two curbside recycling contractors by more than \$1 million per year. At the end of the legislative session, the City of San José supported efforts to expand the types and number of beverage containers covered by AB 2020 and to increase the CRV on some containers so that funding lost in the current State Budget could be restored. This language was previously in SB 55 (Corbett), sponsored by Californians Against Waste, then was amended into AB 983 (Skinner-Corbett), and, finally, was amended into in SB 402 (Wolk) and passed the last day of the session.

Description

SB 402 is intended to address the insolvency in the Fund by expanding the California Beverage Container Recycling Program, closing the loophole for large juice containers, moving the threshold for the 10-cent CRV from 24 ounces to 20 ounces, and accelerating the CRV payment to the Department of Conservation from 90 to 60 days. This bill also authorizes the Department of Conservation to reduce the number of unserved supermarket-based recycling centers. Specifically, this bill would:

1. Redefine the term "beverage" to include vegetable, nut, grain, or soy drinks; delete the exclusion for a product that is not sold in aluminum, glass, plastic, or bimetal containers, thus including aseptic and paperboard type beverage containers; exempt beverages in a flexible foil, plastic pouch, or aseptic container that holds seven fluid ounces or less; and add a definition of "paper beverage container" that means a paperboard carton, gable-top, aseptic, poly-coated paperboard, or other beverage container made primarily of paper;
2. Change the threshold for the 10-cent CRV payment paid by the distributor and the refund value from containers that hold 20 ounces or more;
3. Require beverage distributors to make the CRV payment no later than the last day of the second month following the sale of the beverages instead of the third month (moving \$100 million into the Fund this fiscal year);
4. Increase the amount for grant funds to certified community conservation corps for beverage container litter reduction programs and recycling programs from \$15 million to \$22 million;
5. Provides assistance and incentives to reduce the number of zones not serviced by a certified recycling center.

ANALYSIS

A fact sheet and analysis of SB 402 is attached.

COORDINATION

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

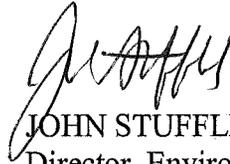
09-16-09

Subject: Support for SB 402

Page 4

POLICY ALIGNMENT

The attached fact sheet and analyses support Council-adopted 2009 Legislative Priorities and Legislative Guiding Principles, and the City's Green Vision, Zero Waste, and Urban Environmental Accords goals.



JOHN STUFFLEBEAN
Director, Environmental Services

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

Attachment: Fact sheet and Analysis of SB 402

SB 402 (Wolk)

RECYCLING: BEVERAGE CONTAINERS: REDEMPTION PAYMENTS AND RESTORATION OF FUNDING

What's the issue the bill is trying to resolve?

The California Beverage Container Recycling and Litter Reduction Act (AB 2020 of 1987, or the "Bottle Bill") has led to the recycling of more than 200 billion containers—more than 9 million tons of aluminum, glass and plastic. Aluminum can recycling rates have achieved the target recycling rate of 80 most years. No other container types have been recycled at that rate, although significant gains have been achieved recently.

The higher recycling rates and the transfers from the Fund intended to help balance the State's budget have depleted funds needed to support this successful recycling infrastructure and many local programs. In June 2009, the Department of Conservation was forced to cut funding for most collection, processing, and market development programs by 85 percent. Without these funds, consumer recycling opportunities would be eliminated, curbside recycling programs would suffer significant losses, market support would be curtailed, and thousands of good green jobs would be lost

How would the passage of this bill affect San Jose?

The City's annual funding from the City/County Payment Program would be restored to \$255,000. These funds are needed to start and maintain recycling programs that cannot be funded with residential user fees, such as parks recycling, large event recycling, and the Go Green Schools Program. The City has limited alternative funding sources to maintain some of these programs or to continue efforts to increase recycling away from home.

This bill would also reverse significant funding cuts to the San Jose Conservation Corps and to the City's curbside recycling contractors. It would increase the recycling rate for many single-serve beverage containers, which will reduce litter in City parks and other public spaces. It will also result in additional recycling centers in unserved areas, allowing San José residents to redeem their containers more conveniently.

The proposed bill would address the insolvency in the Fund by expanding the California Beverage Container Recycling Program, closing the loophole for large juice containers, moving the threshold for the 10-cent California Redemption Value (CRV) from 24 ounces to 20 ounces, and accelerating the CRV payment to the Department of Conservation from 90 to 60 days. This bill also authorizes the Department of Conservation to reduce the number of unserved supermarket-based recycling centers.

What is staff's Proposed Position?

Staff recommends that the City support SB 402.

Who are the bill's supporters and opponents?

Supporters.

League of California Cities

City of Napa

City and County of San Francisco Department of the Environment

California State Association of Counties

Regional Council of Rural Counties

Urban Counties Caucus

California Association of Local Conservation Corps

San Jose Conservation Corps - Charter School & eleven other local conservation corps

California Coastal Coalition

Service Employees International Union

Beverage manufacturers and bottlers: Anheuser-Busch Companies, Inc., California Bottled Water Association, California Small Brewers Association, Crown Imports, Heineken USA, MillerCoors

Curbside recyclers: California Refuse Recycling Council, Tri-CED Community Recycling, Waste Management

Glass & plastic recyclers and manufacturers: eCullet Glass Recycler, Strategic Materials Inc., ECO2 Plastic Inc, Ecoplast, Merlin Plastics, Peninsula Packaging Co., Peninsula Plastics Recycling Inc., Talco Plastics, Inc.

NexCycle

Urban Ore

Opposition.

California League of Food Processors

California Nevada Soft Drink Association

Grocery Manufacturers Association

(Support and opposition listed in the September 11, 2009, Senate floor analysis.)

What is the current status of the measure?

SB 402 was amended in the Assembly Committee on Natural Resources on September 11, 2009, passing 8-0. It was approved by the Assembly 58-16. The Senate concurred in the Assembly amendments 22-14 on September 11, 2009, and sent it to enrollment.