

AMENDED IN SENATE APRIL 2, 2013

SENATE BILL

No. 700

**Introduced by Senator Wolk
(Principal coauthor: Senator Evans)**

February 22, 2013

An act to add Chapter 1.21 (commencing with Section 5081) to Division 5 of, and to add Chapter 5.2 (commencing with Section 42280) to Part 3 of Division 30 of, the Public Resources Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 700, as amended, Wolk. Natural resources: parks: carryout bags.

(1) Existing law requires an operator of a store, as defined, to establish an at-store recycling program that provides to customers the opportunity to return clean plastic carryout bags to that store. This requirement is repealed on January 1, 2013. Existing law prohibits a city, county, or other local public agency from taking specified regulatory actions with regard to the recycling of plastic carryout bags. Existing law provides for the enforcement of those provisions by local agencies and by the state and requires the civil penalties collected by the state to be expended by the Attorney General, upon appropriation by the Legislature, to implement these requirements.

This bill would require a retail establishment, as defined, to collect a charge of \$0.05 for each single-use carryout bag provided to a customer. The bill would require the retail establishment to retain \$0.005 of that charge and would allow a retail establishment to retain an additional \$0.005 if the retail establishment credits the consumer no less than \$0.05 for each carryout bag provided by the consumer for packaging his or her purchases, and meets other requirements.

The bill would require the retail establishment to remit the collected charges to the State Board of Equalization, which would be required to collect the charges pursuant to the Fee Collection Procedures Law. Since certain violations of that law are a crime, the bill would impose a state-mandated local program.

The bill would allow the governing body of a city or county to adopt an ordinance that provides that the charge does not apply in that city or county.

The bill would require the collected charges to be deposited in the Local Environmental Enhancement Fund, which this bill would create in the State Treasury. The bill would provide that the money deposited in the fund is available for expenditure by the Natural Resources Agency, upon appropriation by the Legislature. The bill would require the agency, after retaining no more than 5% of the moneys for the implementation of the bill, to allocate the remaining revenues in the fund to issue grants to a city or county for local parks and for local programs aimed at reducing and cleaning up litter. The bill would allow a city or county to apply for grants up to an amount that does not exceed the total amount of revenues generated by the city or county in which the park or program is located, except as specified with regard to administrative costs.

This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 1.21 (commencing with Section 5081)
- 2 is added to Division 5 of the Public Resources Code, to read:

1 CHAPTER 1.21. LOCAL ENVIRONMENTAL ENHANCEMENT ACT

2
3 5081. There is hereby established the Local Environmental
4 Enhancement Fund in the State Treasury. All moneys deposited
5 in the fund are available for expenditure by the Natural Resources
6 Agency, upon appropriation by the Legislature, for the purposes
7 of this chapter. After retaining no more than 5 percent of the
8 moneys annually deposited in the Local Environmental
9 Enhancement Fund for the implementation of this chapter, the
10 Natural Resources Agency shall allocate the remaining revenues
11 in the fund to issue grants to cities and counties for local parks and
12 for local programs aimed at reducing and cleaning up litter, which
13 shall include grants for any of the following purposes:

14 (a) Operating and maintenance costs, including repair costs, for
15 facilities, visitor centers, restrooms, campsites, and ranger stations,
16 with priority for the expenditure of the grant by private nonprofit
17 organizations that have taken over ~~park~~ operations *of a state park*.

18 (b) Acquisitions, with priority for parks in disadvantaged
19 communities with few park resources.

20 (c) Expansion of access to parks *and recreation-related*
21 *programming*, including public outreach and education, improved
22 transportation access, safety, and security.

23 (d) *Local park improvement or rehabilitation projects that*
24 *enhance the overall condition or recreational experience of a park*
25 *unit.*

26 ~~(d)~~

27 (e) Protecting and restoring park cultural and historical
28 resources.

29 (f) *Expansion and improvements of nonmotorized trail systems*
30 *and networks for commuter and recreational benefits.*

31 ~~(e)~~

32 (g) Litter abatement and cleanup programs, including beach
33 cleanup programs.

34 5082. (a) A grant shall not be issued pursuant to this chapter
35 if the park or program is located within a jurisdiction that has
36 adopted an ordinance pursuant to Section 42285.

37 (b) (1) A city or county may apply for a grant pursuant to
38 Section 5081 in an amount that does not exceed the total amount
39 of revenues generated by retail establishments located in that city
40 or county pursuant to Chapter 5.2 (commencing with Section

1 42280) of Part 3 of Division 30, less the administrative costs
2 authorized by this chapter and subdivision (d) of Section 42282.

3 (2) *In those cases in which a city or county shares open-space,*
4 *recreation, and park-related responsibilities with a special district,*
5 *or the city’s or county’s open-space, recreation, and park-related*
6 *responsibilities are provided by a special district, including a*
7 *regional park district, the city or county may, and is encouraged*
8 *to, establish a grant program to allocate funding to any project*
9 *that addresses the most pressing open-space, recreation, and*
10 *park-related needs of that jurisdiction or the population it serves.*

11 (c) *The department shall approve an application for a grant if*
12 *the grant complies with the requirements of Section 5081.*

13 SEC. 2. Chapter 5.2 (commencing with Section 42280) is added
14 to Part 3 of Division 30 of the Public Resources Code, to read:

15

16 CHAPTER 5.2. SINGLE-USE CARRYOUT BAGS

17

18 42280. For the purposes of this chapter, the following terms
19 shall apply:

20 (a) “Retail establishment” means a retail establishment that sells
21 food for consumption on or off the premises or that is issued a
22 Type 20 or Type 21 license by the Department of Alcoholic
23 Beverage Control.

24 (b) “Reusable grocery bag” means a bag made of cloth or other
25 machine washable fabric that has handles or a durable plastic bag
26 with handles that is at least 2.25 mils thick, contains at least 20
27 percent postconsumer recycled material, and is specifically
28 designed for multiple uses.

29 (c) “Single-use carryout bag” means a bag made of plastic,
30 paper, or other material that is provided by a store to a customer
31 at the point of sale and that is not a reusable grocery bag.

32 42281. (a) There is hereby imposed on each customer making
33 a purchase from a retail establishment a charge of five cents (\$0.05)
34 for each single-use carryout bag.

35 (b) A customer shall pay the charge specified in subdivision (a)
36 to the retailer at the time of the purchase.

37 (c) A retail establishment shall indicate on the consumer
38 transaction receipt the number of single-use carryout bags provided
39 and the total amount of the charge.

1 (d) (1) A retail establishment shall retain five mills (\$0.005) of
2 each five-cent (\$0.05) charge paid pursuant to subdivision (a).

3 (2) A retail establishment may retain an additional five mills
4 (\$0.005) of each five-cent (\$0.05) charge paid pursuant to
5 subdivision (a) if the retail establishment does all of the following:

6 (A) Credits the consumer no less than five cents (\$0.05) for
7 each carryout bag provided by a consumer for packaging the
8 consumer's purchases, regardless of whether that bag is paper,
9 plastic, or reusable.

10 (B) Prominently advertises the credit specified in subparagraph
11 (A) at each checkout register.

12 (C) Reflects the total credit amount on the consumer transaction
13 receipt.

14 (e) Notwithstanding Section 6011 of the Revenue and Taxation
15 Code, "sales price" shall not include the charge imposed pursuant
16 to this section.

17 42282. (a) A retail establishment subject to this chapter shall
18 remit the charges collected pursuant to Section 42281 to the State
19 Board of Equalization.

20 (b) The State Board of Equalization shall collect the charges
21 pursuant to the Fee Collection Procedures Law (Part 30
22 commencing with Section 55001) of Division 2 of the Revenue
23 and Taxation Code). For the purposes of this section, the reference
24 in the Fee Collection Procedures Law to "feepayer" shall include
25 a consumer or a retail establishment.

26 (c) The State Board of Equalization shall adopt regulations for
27 the frequency and method for reporting and transmitting the
28 charges collected pursuant to this section.

29 (d) The State Board of Equalization may retain and expend,
30 upon appropriation by the Legislature, not more than 5 percent of
31 the charges annually collected pursuant to this chapter for purposes
32 of administering the fee collection provisions of this chapter.

33 42283. (a) Except as provided in Section 42281, all charges
34 collected pursuant to this chapter shall be deposited in the Local
35 Environmental Enhancement Fund, for expenditure pursuant to
36 Chapter 1.21 (commencing with Section 5081) of Division 5.

37 (b) The State Board of Equalization shall establish a procedure
38 for tracking all revenues deposited in the Local Environmental
39 Enhancement Fund based on the city or county where the retail
40 establishment is located.

1 42284. (a) This chapter does not preempt or prohibit the
2 adoption, implementation, or enforcement of any local ordinance,
3 resolution, regulation, or rule governing single-use carryout bags,
4 including, but not limited to, the imposition of a charge or fee with
5 regard to the sale or distribution of single-use carryout bags.

6 (b) This chapter does not prohibit the adoption, implementation,
7 or enforcement of any local ordinance, resolution, regulation, or
8 rule governing curbside or dropoff recycling programs operated
9 by, or pursuant to a contract with, a city, county, or other public
10 agency, including any action relating to fees or charges for these
11 programs.

12 (c) This chapter does not affect any contract, franchise, permit,
13 license, or other arrangement regarding the collection or recycling
14 of solid waste or household hazardous waste.

15 42285. The governing body of a city or county may adopt an
16 ordinance that provides that the charge imposed pursuant to this
17 chapter does not apply in that city or county.

18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.