

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 15, 2013

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 This requirement is repealed on January 1, 2013.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. The bill would require cities and counties eligible to receive grants from the Natural Resources Agency to develop, through a public process, criteria for determining eligibility to receive and for awarding local grants. The bill would require the Natural Resources Agency to annually post on a publicly accessible Internet Web site a list of cities and counties receiving funding and the amounts received, and would require the cities and counties receiving grant funding to annually post on a publicly accessible Internet Web site a list of the projects receiving local grants and the amounts received. The bill would require the Bureau of State Audits and Evaluations to review the Natural Resources Agency grants to the cities and counties and the local grant programs administered by the cities and counties.

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) *This bill would provide that it would not take effect if Senate Bill 405 of the 2013–14 Regular Session amends state law to prohibit the provision of single-use carryout bags to a customer at a point of sale, and that bill is enacted and becomes operative on or before January 1, 2014.*

~~(2)~~

(3) 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:

3

4 CHAPTER 1.21. LOCAL ENVIRONMENTAL ENHANCEMENT ACT

5

6 5081. There is hereby established the Local Environmental
7 Enhancement Fund in the State Treasury. All moneys deposited
8 in the fund are available for expenditure by the Natural Resources
9 Agency, upon appropriation by the Legislature, for the purposes
10 of this chapter. After retaining no more than 5 percent of the
11 moneys annually deposited in the Local Environmental
12 Enhancement Fund for the implementation of this chapter, the
13 Natural Resources Agency shall allocate the remaining revenues
14 in the fund to issue grants to cities and counties for local parks and
15 for local programs aimed at reducing and cleaning up litter. A city
16 or county receiving funds pursuant to this chapter shall provide
17 local grants to eligible applicants consistent with these goals for
18 any of the following purposes:

19 (a) (1) Operating and maintenance costs at local parks,
20 including, but not limited to, repair costs, for facilities, visitor
21 centers, restrooms, campsites, and ranger stations.

22 (2) (A) Local state parks operated by nonprofit organizations
23 or public-private nonprofit organization partnerships shall receive
24 priority in receiving grants funds pursuant to this chapter.

- 1 (B) For the purposes of this paragraph, “private nonprofit
- 2 organization” is an organization that is exempt from taxation
- 3 pursuant to Section 501(c)(3) of the Internal Revenue Code.
- 4 (b) (1) Property acquisitions, with priority for local parks in
- 5 disadvantaged communities with few park resources.
- 6 (2) Property acquisition from a willing seller made pursuant to
- 7 paragraph (1) shall not be at a price exceeding the fair market value
- 8 as determined by an independent and impartial appraisal meeting
- 9 all of the following requirements:
- 10 (A) The appraisal meets all applicable requirements of state and
- 11 local laws and policies and shall conform with the Uniformed
- 12 Standards of Professional Appraisal Practice.
- 13 (B) The appraisal does not involve a fee based upon a percentage
- 14 of the property’s appraised value.
- 15 (C) The appraiser performing the appraisal does not have a
- 16 financial interest in the property being appraised, including, but
- 17 not limited to, being the seller or donor, a party to the seller’s
- 18 acquisition of the property, or employed by, or related to, the seller,
- 19 donor, or a party to the seller’s acquisition.
- 20 (D) The appraiser selected by the acquisition agency or project
- 21 partner that contracts for the appraisal is qualified to appraise the
- 22 specific property based upon verifiable education, experience, and
- 23 knowledge of appropriate methodologies, techniques, and the real
- 24 estate market relevant to the specific property and any significant
- 25 property-specific specialty interest, if applicable.
- 26 (3) The landowner may contribute to the costs of the appraisal,
- 27 but shall not be named as a coclient of the appraiser or firm
- 28 preparing the appraisal.
- 29 (4) A property acquisition shall not be approved without an
- 30 assessment of the ability to fund ongoing operations and
- 31 maintenance costs for the property.
- 32 (c) Expansion of access to local parks and recreation-related
- 33 programming, including public outreach and education, improved
- 34 transportation access, safety, and security.
- 35 (d) Local park improvement or rehabilitation projects that
- 36 enhance the overall condition or recreational experience of a park
- 37 unit.
- 38 (e) Protecting and restoring local park cultural and historical
- 39 resources.

1 (f) Expansion and improvements of nonmotorized trail systems
2 and networks for commuter and recreational benefits.

3 (g) Local litter abatement and cleanup programs, including
4 beach cleanup programs.

5 5082. (a) A local grant shall not be issued pursuant to this
6 chapter if the park or program is located within a jurisdiction that
7 has adopted an ordinance pursuant to Section 42285.

8 (b) (1) A city or county may apply for a grant pursuant to
9 Section 5081 in an amount that does not exceed the total amount
10 of revenues generated by retail establishments located in that city
11 or county pursuant to Chapter 5.2 (commencing with Section
12 42280) of Part 3 of Division 30, less the administrative costs
13 authorized by this chapter and subdivision (d) of Section 42282.

14 (2) In those cases in which a city or county shares open-space,
15 recreation, and park-related responsibilities with a special district,
16 or the city's or county's open-space, recreation, and park-related
17 responsibilities are provided by a special district, including a
18 regional park district, the city or county may, and is encouraged
19 to, place a high priority in its local grant program allocating funding
20 to any project that addresses the most pressing open-space,
21 recreation, and park-related needs of that jurisdiction or the
22 population it serves.

23 (c) The Natural Resources Agency shall approve an application
24 for a grant to a city or county if the grant complies with the
25 requirements of Section 5081.

26 (d) A city or county eligible to receive grants from the Natural
27 Resources Agency pursuant to Section 5081 shall develop, through
28 a public process with the opportunity for public input, criteria for
29 determining eligibility to receive and for awarding the local grants.

30 (e) To promote transparency, the Natural Resources Agency
31 shall annually post on its publicly accessible Internet Web site a
32 list of the cities and counties receiving funds pursuant to this
33 chapter and the amount received. The cities and counties shall also
34 annually post on their publicly accessible Internet Web sites a list
35 of projects receiving local grants and the amounts received.

36 (f) The Bureau of State Audits and Evaluation shall review the
37 Natural Resources Agency's grants to cities and counties and the
38 local grant programs administered by the cities and counties.

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

CHAPTER 5.2. SINGLE-USE CARRYOUT BAGS

1
2
3 42280. For the purposes of this chapter, the following terms
4 shall apply:

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

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

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

17 42281. (a) There is hereby imposed on each customer making
18 a purchase from a retail establishment a charge of five cents (\$0.05)
19 for each single-use carryout bag.

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

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

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

27 (2) A retail establishment may retain an additional five mills
28 (\$0.005) of each five-cent (\$0.05) charge paid pursuant to
29 subdivision (a) if the retail establishment does all of the following:

30 (A) Credits the consumer no less than five cents (\$0.05) for
31 each carryout bag provided by a consumer for packaging the
32 consumer’s purchases, regardless of whether that bag is paper,
33 plastic, or reusable.

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

36 (C) Reflects the total credit amount on the consumer transaction
37 receipt.

38 (e) Notwithstanding Section 6011 of the Revenue and Taxation
39 Code, “sales price” shall not include the charge imposed pursuant
40 to this section.

1 42282. (a) A retail establishment subject to this chapter shall
2 remit the charges collected pursuant to Section 42281 to the State
3 Board of Equalization.

4 (b) The State Board of Equalization shall collect the charges
5 pursuant to the Fee Collection Procedures Law (Part 30
6 (commencing with Section 55001) of Division 2 of the Revenue
7 and Taxation Code). For the purposes of this section, the reference
8 in the Fee Collection Procedures Law to “feepayer” shall include
9 a consumer or a retail establishment.

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

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

17 42283. (a) Except as provided in Section 42281, all charges
18 collected pursuant to this chapter shall be deposited in the Local
19 Environmental Enhancement Fund, for expenditure pursuant to
20 Chapter 1.21 (commencing with Section 5081) of Division 5.

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

25 42284. (a) This chapter does not preempt or prohibit the
26 adoption, implementation, or enforcement of any local ordinance,
27 resolution, regulation, or rule governing single-use carryout bags,
28 including, but not limited to, the imposition of a charge or fee with
29 regard to the sale or distribution of single-use carryout bags.

30 (b) This chapter does not prohibit the adoption, implementation,
31 or enforcement of any local ordinance, resolution, regulation, or
32 rule governing curbside or dropoff recycling programs operated
33 by, or pursuant to a contract with, a city, county, or other public
34 agency, including any action relating to fees or charges for these
35 programs.

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

1 42285. The governing body of a city or county may adopt an
2 ordinance that provides that the charge imposed pursuant to this
3 chapter does not apply in that city or county.

4 *SEC. 3. This measure shall not take effect if Senate Bill 405 of*
5 *the 2013–14 Regular Session of the Legislature amends state law*
6 *to prohibit the provision of a single-use carryout bag to a customer*
7 *at a point of sale, and that bill is enacted and becomes operative*
8 *on or before January 1, 2014.*

9 ~~SEC. 3.~~

10 *SEC. 4.* No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.