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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1005

**Introduced by Assembly Members Gordon and Levine
(Coauthors: Assembly Members Patterson and Wilk)**

February 26, 2015

An act to amend Sections 14549.2 and 14581 of the Public Resources Code, relating to beverage containers, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1005, as amended, Gordon. California Beverage Container Recycling and Litter Reduction Act: market development payments.

Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a distributor to pay a redemption payment for every beverage container sold or offered for sale in the state *by the distributor* to the Department of Resources Recycling and Recovery for deposit in the California Beverage Container Recycling Fund. Moneys in the fund are continuously appropriated to the department for certain payments, including market development payments. Existing law authorizes the department, until that authorization is repealed on January 1, 2017, to (1) annually expend up to \$10,000,000 from the fund to make market development payments to an entity certified by the department as a recycling center, processor, or dropoff or collection

program for empty plastic beverage containers that are subsequently washed and processed into flake, pellet, or other form, and made usable for the manufacture of a plastic product, or to a product manufacturer for empty plastic beverage containers that are subsequently washed and processed into flake, pellet, or other form, and used by that product manufacturer to manufacture a ~~product~~. *product, and to (2) expend additional amounts to make market development payments, calculated as provided.*

This bill would postpone that repeal until January 1, ~~2022~~. 2018. By extending the term of a continuous appropriation, this bill would make an appropriation.

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

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

1 SECTION 1. Section 14549.2 of the Public Resources Code
 2 is amended to read:
 3 14549.2. (a) For purposes of this section, the following
 4 definitions shall apply:
 5 (1) “Certified entity” means a recycling center, processor, or
 6 dropoff or collection program certified pursuant to this division.
 7 (2) “Product manufacturer” means a person who manufactures
 8 a plastic product in this state.
 9 (b) In order to develop California markets for empty plastic
 10 beverage containers collected for recycling in the state, the
 11 department may, consistent with Section 14581 and subject to the
 12 availability of funds, pay a market development payment to a
 13 certified entity or product manufacturer for empty plastic beverage
 14 containers collected and managed pursuant to this section.
 15 (c) The department shall make a market development payment
 16 to a certified entity or product manufacturer in accordance with
 17 this section, only if the plastic beverage container is collected and
 18 either recycled or used in manufacturing, in the state, as follows:
 19 (1) The department shall make a market development payment
 20 to a certified entity for empty plastic beverage containers that are
 21 collected for recycling in the state, that are subsequently washed
 22 and processed by a certified entity into a flake, pellet, or other
 23 form in the state, and made usable for the manufacture of a plastic
 24 product by a product manufacturer.

1 (2) The department shall make a market development payment
2 to a product manufacturer for empty plastic beverage containers
3 that are collected for recycling in the state, that are subsequently
4 washed and processed into a flake, ~~pellet~~ *pellet*, or other form in
5 the state, and used by that product manufacturer to manufacture a
6 product in this state.

7 (3) The department shall determine the amount of the market
8 development payment, which may be set at a different level for a
9 certified entity and a product manufacturer, but shall not exceed
10 one hundred fifty dollars (\$150) per ton. In setting the amount of
11 the market development payment for both certified entities and
12 product manufacturers, the department shall consider all of the
13 following:

14 (A) The minimum funding level needed to encourage the in-state
15 washing and processing of empty plastic beverage containers
16 collected for recycling in this state.

17 (B) The minimum funding level needed to encourage the in-state
18 manufacturing that utilizes empty plastic beverage containers
19 collected for recycling in this state.

20 (C) The total amount of funds projected to be available for
21 plastic market development payments and the desire to maintain
22 the minimum funding level needed throughout the year.

23 (4) The department may make a market development payment
24 to both a certified entity and a product manufacturer for the same
25 empty plastic beverage container.

26 (d) This section shall remain in effect only until January 1, ~~2022~~,
27 *2018*, and as of that date is repealed, unless a later enacted statute,
28 that is enacted before January 1, ~~2022~~, *2018*, deletes or extends
29 that date.

30 SEC. 2. Section 14581 of the Public Resources Code is
31 amended to read:

32 14581. (a) Subject to the availability of funds and in
33 accordance with subdivision (b), the department shall expend the
34 moneys set aside in the fund, pursuant to subdivision (c) of Section
35 14580, for the purposes of this section in the following manner:

36 (1) For each fiscal year, the department may expend the amount
37 necessary to make the required handling fee payment pursuant to
38 Section 14585.

1 (2) Fifteen million dollars (\$15,000,000) shall be expended
2 annually for payments for curbside programs and neighborhood
3 dropoff programs pursuant to Section 14549.6.

4 (3) (A) Ten million five hundred thousand dollars (\$10,500,000)
5 may be expended annually for payments of five thousand dollars
6 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
7 to counties for beverage container recycling and litter cleanup
8 activities, or the department may calculate the payments to counties
9 and cities on a per capita basis, and may pay whichever amount
10 is greater, for those activities.

11 (B) Eligible activities for the use of these funds may include,
12 but are not necessarily limited to, support for new or existing
13 curbside recycling programs, neighborhood dropoff recycling
14 programs, public education promoting beverage container
15 recycling, litter prevention, and cleanup, cooperative regional
16 efforts among two or more cities or counties, or both, or other
17 beverage container recycling programs.

18 (C) These funds shall not be used for activities unrelated to
19 beverage container recycling or litter reduction.

20 (D) To receive these funds, a city, county, or city and county
21 shall fill out and return a funding request form to the department.
22 The form shall specify the beverage container recycling or litter
23 reduction activities for which the funds will be used.

24 (E) The department shall annually prepare and distribute a
25 funding request form to each city, county, or city and county. The
26 form shall specify the amount of beverage container recycling and
27 litter cleanup funds for which the jurisdiction is eligible. The form
28 shall not exceed one double-sided page in length, and may be
29 submitted electronically. If a city, county, or city and county does
30 not return the funding request form within 90 days of receipt of
31 the form from the department, the city, county, or city and county
32 is not eligible to receive the funds for that funding cycle.

33 (F) For the purposes of this paragraph, per capita population
34 shall be based on the population of the incorporated area of a city
35 or city and county and the unincorporated area of a county. The
36 department may withhold payment to any city, county, or city and
37 county that has prohibited the siting of a supermarket site, caused
38 a supermarket site to close its business, or adopted a land use policy
39 that restricts or prohibits the siting of a supermarket site within its
40 jurisdiction.

1 (4) One million five hundred thousand dollars (\$1,500,000) may
2 be expended annually in the form of grants for beverage container
3 recycling and litter reduction programs.

4 (5) (A) The department shall expend the amount necessary to
5 pay the processing payment established pursuant to Section 14575.
6 The department shall establish separate processing fee accounts
7 in the fund for each beverage container material type for which a
8 processing payment and processing fee are calculated pursuant to
9 Section 14575, or for which a processing payment is calculated
10 pursuant to Section 14575 and a voluntary artificial scrap value is
11 calculated pursuant to Section 14575.1, into which account shall
12 be deposited both of the following:

13 (i) All amounts paid as processing fees for each beverage
14 container material type pursuant to Section 14575.

15 (ii) Funds equal to the difference between the amount in clause
16 (i) and the amount of the processing payments established in
17 subdivision (b) of Section 14575, and adjusted pursuant to
18 paragraph (2) of subdivision (c) of, and subdivision (f) of, Section
19 14575, to reduce the processing fee to the level provided in
20 subdivision (e) of Section 14575, or to reflect the agreement by a
21 willing purchaser to pay a voluntary artificial scrap value pursuant
22 to Section 14575.1.

23 (B) Notwithstanding Section 13340 of the Government Code,
24 the moneys in each processing fee account are hereby continuously
25 appropriated to the department for expenditure without regard to
26 fiscal years, for purposes of making processing payments pursuant
27 to Section 14575.

28 (6) Up to five million dollars (\$5,000,000) may be annually
29 expended by the department for the purposes of undertaking a
30 statewide public education and information campaign aimed at
31 promoting increased recycling of beverage containers.

32 (7) Up to ten million dollars (\$10,000,000) may be expended
33 annually by the department for quality incentive payments for
34 empty glass beverage containers pursuant to Section 14549.1.

35 (8) (A) Up to ten million dollars (\$10,000,000) may be
36 expended annually by the department for market development
37 payments for empty plastic beverage containers pursuant to Section
38 14549.2, until January 1, ~~2022~~: 2018.

39 (B) In addition to the amount specified in subparagraph (A),
40 the department may expend the amount calculated pursuant to

1 subparagraph (C) for market development payments for empty
2 plastic beverage containers pursuant to Section 14549.2.

3 (C) The department shall calculate the amount authorized for
4 expenditure pursuant to subparagraph (B) in the following manner:

5 (i) The department shall annually determine, on or before
6 January 1, whether the amount of funds estimated to be necessary
7 pursuant to clause (ii) of subparagraph (A) of paragraph (5) for
8 deposit to a processing fee account established by the department
9 for plastic beverage containers to make processing payments for
10 plastic beverage containers for the current calendar year is less
11 than the total amount of funds that were estimated to be necessary
12 the previous calendar year pursuant to clause (ii) of subparagraph
13 (A) of paragraph (5) for deposit to that processing fee account.

14 (ii) If the amount estimated to be necessary for the current
15 calendar year, as specified in clause (i), is less than the amount
16 estimated to be necessary for the previous calendar year, the
17 department shall calculate the amount of that difference.

18 (iii) The department shall expend an amount that is not greater
19 than 50 percent of the amount calculated pursuant to clause (ii)
20 for purposes of subparagraph (B).

21 (iv) If the department determines that the amount of funds
22 authorized for expenditure pursuant to this subparagraph is not
23 needed to make plastic market development payments pursuant to
24 subparagraph (B) in the calendar year for which that amount is
25 allocated, the department may expend those funds during the
26 following year.

27 (v) If the department determines that there are insufficient funds
28 to both make the market development payments pursuant to
29 subparagraph (B) and to deposit the amount required by clause (ii)
30 of subparagraph (A) of paragraph (5), for purposes of making the
31 processing payments and reducing the processing fees pursuant to
32 Section 14575 for plastic beverage containers, the department shall
33 suspend the implementation of this subparagraph and subparagraph
34 (B).

35 (D) Subparagraphs (B) and (C) shall remain operative only until
36 January 1, ~~2022~~. 2018.

37 (b) (1) If the department determines, pursuant to a review made
38 pursuant to Section 14556, that there may be inadequate funds to
39 pay the payments required by this division, the department shall

1 immediately notify the appropriate policy and fiscal committees
2 of the Legislature regarding the inadequacy.

3 (2) On or before 180 days, but not less than 80 days, after the
4 notice is sent pursuant to paragraph (1), the department may reduce
5 or eliminate expenditures, or both, from the funds as necessary,
6 according to the procedure set forth in subdivision (c).

7 (c) If the department determines that there are insufficient funds
8 to make the payments specified pursuant to this section and Section
9 14575, the department shall reduce all payments proportionally.

10 (d) Before making an expenditure pursuant to paragraph (6) of
11 subdivision (a), the department shall convene an advisory
12 committee consisting of representatives of the beverage industry,
13 beverage container manufacturers, environmental organizations,
14 the recycling industry, nonprofit organizations, and retailers to
15 advise the department on the most cost-effective and efficient
16 method of the expenditure of the funds for that education and
17 information campaign.

18 (e) Subject to the availability of funds, the department shall
19 retroactively pay in full any payments provided in this section that
20 have been proportionally reduced during the period of January 1,
21 2010, through June 30, 2010.