

AMENDED IN ASSEMBLY JUNE 23, 2016

AMENDED IN ASSEMBLY MAY 25, 2016

SENATE BILL

No. 842

Introduced by Committee on Budget and Fiscal Review

January 7, 2016

~~An act relating to the Budget Act of 2016.~~ *An act to amend Sections 14575 and 14585 of, to amend and repeal Section 14581 of, and to add and repeal Sections 14572.3 and 14575.2 of, the Public Resources Code, relating to recycling, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

SB 842, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2016.~~ *California Beverage Container Recycling and Litter Reduction Act.*

(1) 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. The act requires the Department of Resources Recycling and Recovery to annually designate convenience zones, as defined, statewide, and requires at least one certified recycling center or location within every convenience zone that accepts all types of empty beverage containers and pays the refund value, if any, at one location, and that is open for business 30 hours per week.

This bill would exempt from the requirement that each convenience zone be served by at least one certified recycling center a convenience zone that was served by, or exempted because of, a recycling center that closed between January 1, 2016, and March 31, 2016, inclusive,

or that closed as a result of an action taken by the department on or after July 1, 2016.

(2) Under the act, the department is required to calculate a processing fee for each beverage container with a specified scrap value, which is required to be paid by beverage manufacturers for each beverage container sold or transferred to a distributor or dealer. The department is required to calculate the processing fee in a specified manner, so that the actual processing fee generally equals 65% of the processing payment that the department is required to pay to processors if the scrap value of the container having a refund value pursuant to the act is less than the cost of recycling. The department is required to establish a processing fee account in the continuously appropriated California Beverage Container Recycling Fund for each material type and to deposit processing fees and other amounts in the applicable account.

This bill would, for purposes of calculating processing payments on and after July 1, 2016, require the department, until April 1, 2017, to use the actual cost of recycling that was in effect on December 30, 2015, to calculate processing fees. The bill would make an appropriation by changing the terms and conditions under which the department is authorized to make payments from a continuously appropriated fund. The bill would provide that the processing fees shall not be higher than they would be absent these provisions.

Existing law authorizes the department to reduce, subject to the availability of funds, the processing fee based on the recycling rate of the container by expending funds deposited in the processing fee account for that material type, in accordance with a specified formula.

This bill would provide a definition for the phrase, “subject to the availability of funds,” and state that definition is declaratory of existing law. The bill would prohibit the department, until April 1, 2017, from finding that funds are unavailable for purposes of that processing fee reduction.

Existing law authorizes the department to adjust the processing payment upon making specified determinations with regard to, among other things, the statewide scrap value for the most recent available 12-month period and the amount of funds in the processing fee account.

This bill would instead require, for purposes of adjusting the processing payment, use of the statewide scrap value as determined for the most recent available 3-month period.

(3) *The act continuously appropriates to the department the amount necessary to pay handling fees to provide an incentive for the redemption of empty beverage containers in convenience zones. Existing law specifies procedures for determining the number of containers for which a handling fee may be paid and requires the department to set the amount of the handling fee using a specified method, but formerly required the per-container handling fee to be set until March 1, 2013, at an amount not less than the amount of the per-container handling fee that was in effect on July 1, 2011.*

This bill would require the per-container handling fee to be set until April 1, 2017, at an amount that is not less than the amount of the per-container handling fee that was in effect on July 1, 2015. The bill would authorize the department to expend, once the per-container handling fee is funded, up to \$3,000,000 for the 2016–17 fiscal year for supplemental incentive handling fee payments to low-volume recycling centers. The bill would make an appropriation by changing the terms and conditions under which the department is authorized to make payments from a continuously appropriated fund.

(4) *After setting aside funds for the payment of refund values and administrative fees, and for a reserve for contingencies, existing law continuously appropriates the remaining moneys in the fund to the department for expenditure for designated programs, grants, and fee payments, including, but not limited to, the processing fees and payments specified in (2) and the handling fees specified in (3).*

This bill would make inoperative on April 1, 2017, the continuous appropriations of the remaining moneys in the fund, and related provisions.

(5) *This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.*

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2016.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 SECTION 1. (a) *The Legislature finds and declares all of the*
2 *following:*

1 (1) Recycling is critical to reducing the amount of materials
2 sent to landfills and reducing the amount of virgin materials
3 necessary to produce new products.

4 (2) The state's beverage container recycling program has
5 achieved significant success over the decades since it was enacted,
6 including a recycling rate as high as 85 percent in 2012–13.

7 (3) However, that success has been accompanied by significant
8 challenges, including reduced customer access to centers where
9 they can redeem their deposit, record low scrap prices, and a
10 structural deficit for the program's operating fund.

11 (4) The Department of Resources Recycling and Recovery
12 projects that the California Beverage Container Recycling Fund
13 will have an average annual structural deficit of \$74.7 million for
14 the fiscal years 2015–16 to 2017–18, inclusive.

15 (5) In order to continue the success of the state's beverage
16 container recycling program, there must be a comprehensive
17 reprioritization of expenditures from the California Beverage
18 Container Recycling Fund and reconsideration of how the state
19 incentivizes the collection and reuse of recycled products.

20 (b) It is the intent of the Legislature to provide a limited-scope
21 temporary measure to preserve customer access to recycling while
22 the Legislature and the Department of Resources Recycling and
23 Recovery work with all stakeholders to restructure the state's
24 beverage container recycling program and the California Beverage
25 Container Recycling Fund. This restructure should include, but
26 not be limited to, all of the following:

27 (1) What containers should be included in the program.

28 (2) How to continue to raise recycling rates.

29 (3) How to preserve convenient customer access to recycling.

30 (4) How to incentivize the use of products made with recycled
31 materials.

32 (c) It is the intent of the Legislature to suspend all payments
33 from the California Beverage Container Recycling Fund on April
34 1, 2017, unless there is comprehensive reform of the program.

35 SEC. 2. Section 14572.3 is added to the Public Resources Code,
36 to read:

37 14572.3. (a) Notwithstanding Sections 14571.6, 14571.7, and
38 14571.8, commencing July 1, 2016, a convenience zone shall be
39 exempt from the requirements of Section 14571 if either of the
40 following apply:

1 (1) *The convenience zone was served by, or exempted because*
2 *of, a recycling center that closed between January 1, 2016, and*
3 *March 31, 2016, inclusive.*

4 (2) *The convenience zone was served by, or exempted because*
5 *of, a recycling center that closed as a result of an action taken by*
6 *the department on or after July 1, 2016.*

7 (b) *Exemptions granted pursuant to subdivision (a) shall be in*
8 *addition to the total number of exemptions that the director may*
9 *grant pursuant to subdivision (d) of Section 14571.8.*

10 (c) *This section shall become inoperative on April 1, 2017, and,*
11 *as of January 1, 2018, is repealed, unless a later enacted statute,*
12 *that becomes operative on or before January 1, 2018, deletes or*
13 *extends the dates on which it becomes inoperative and is repealed.*

14 *SEC. 3. Section 14575 of the Public Resources Code is*
15 *amended to read:*

16 14575. (a) *If any type of empty beverage container with a*
17 *refund value established pursuant to Section 14560 has a scrap*
18 *value less than the cost of recycling, the department shall, on*
19 *January 1, 2000, and on or before January 1 annually thereafter,*
20 *establish a processing fee and a processing payment for the*
21 *container by the type of the material of the container.*

22 (b) *The processing payment shall be at least equal to the*
23 *difference between the scrap value offered to a statistically*
24 *significant sample of recyclers by willing purchasers, and except*
25 *for the initial calculation made pursuant to subdivision (d), the*
26 *sum of both of the following:*

27 (1) *The actual cost for certified recycling centers, excluding*
28 *centers receiving a handling fee, of receiving, handling, storing,*
29 *transporting, and maintaining equipment for each container sold*
30 *for recycling or, only if the container is not recyclable, the actual*
31 *cost of disposal, calculated pursuant to subdivision (c). The*
32 *department shall determine the statewide weighted average cost*
33 *to recycle each beverage container type, which shall serve as the*
34 *actual recycling costs for purposes of paragraph (2) of subdivision*
35 *(c), by conducting a survey of the costs of a statistically significant*
36 *sample of certified recycling centers, excluding those recycling*
37 *centers receiving a handling fee, for receiving, handling, storing,*
38 *transporting, and maintaining equipment.*

39 (2) *A reasonable financial return for recycling centers.*

1 (c) The department shall base the processing payment pursuant
2 to this section upon all of the following:

3 (1) Except as provided in paragraph (2), for calculating
4 processing payments that will be in effect on and after January 1,
5 2004, the department shall determine the actual costs for certified
6 recycling centers, every second year, pursuant to paragraph (1) of
7 subdivision (b). The department shall adjust the recycling costs
8 annually to reflect changes in the cost of living, as measured by
9 the Bureau of Labor Statistics of the United States Department of
10 Labor or a successor agency of the United States government.

11 (2) On and after January 1, 2010, the department shall use the
12 most recently published, measured actual costs of recycling for a
13 specific beverage material type if the department determines the
14 number of beverage containers for that material type that is returned
15 for recycling pursuant to Section 14551, based on the most recently
16 published calendar year number of beverage containers returned
17 for recycling, is less than 5 percent of the total number of beverage
18 containers returned for recycling for all material types. The
19 department shall determine the actual recycling cost to be used for
20 calculating processing payments for those beverage containers in
21 the following manner:

22 (A) The department shall adjust the costs of recycling that
23 material type every second year by the percentage change in the
24 most recently measured cost of recycling HDPE plastic beverage
25 containers, as determined by the department. The department shall
26 use the percentage change in costs of recycling HDPE plastic
27 beverage containers for this purpose, even if HDPE plastic
28 beverage containers are less than 5 percent of the total volume of
29 returned beverage containers.

30 (B) The department shall adjust the recycling costs annually for
31 that material type to reflect changes in the cost of living, as
32 measured by the Bureau of Labor Statistics of the United States
33 Department of Labor or a successor agency of the United States
34 government.

35 (d) Except as specified in subdivision (e), the actual processing
36 fee paid by a beverage manufacturer shall equal 65 percent of the
37 processing payment calculated pursuant to subdivision (b).

38 (e) (1) The department, consistent with Section 14581 and
39 subject to the availability of funds, shall reduce the processing fee

- 1 paid by beverage manufacturers by expending funds in each
2 material processing fee account, in the following manner:
3 ~~(H)~~
4 (A) On January 1, 2005, and annually thereafter, the processing
5 fee shall equal the following amounts:
6 ~~(A)~~
7 (i) Ten percent of the processing payment for a container type
8 with a recycling rate equal to or greater than 75 percent.
9 ~~(B)~~
10 (ii) Eleven percent of the processing payment for a container
11 type with a recycling rate equal to or greater than 65 percent, but
12 less than 75 percent.
13 ~~(C)~~
14 (iii) Twelve percent of the processing payment for a container
15 type with a recycling rate equal to or greater than 60 percent, but
16 less than 65 percent.
17 ~~(D)~~
18 (iv) Thirteen percent of the processing payment for a container
19 type with a recycling rate equal to or greater than 55 percent, but
20 less than 60 percent.
21 ~~(E)~~
22 (v) Fourteen percent of the processing payment for a container
23 type with a recycling rate equal to or greater than 50 percent, but
24 less than 55 percent.
25 ~~(F)~~
26 (vi) Fifteen percent of the processing payment for a container
27 type with a recycling rate equal to or greater than 45 percent, but
28 less than 50 percent.
29 ~~(G)~~
30 (vii) Eighteen percent of the processing payment for a container
31 type with a recycling rate equal to or greater than 40 percent, but
32 less than 45 percent.
33 ~~(H)~~
34 (viii) Twenty percent of the processing payment for a container
35 type with a recycling rate equal to or greater than 30 percent, but
36 less than 40 percent.
37 ~~(I)~~
38 (ix) Sixty-five percent of the processing payment for a container
39 type with a recycling rate less than 30 percent.
40 ~~(Z)~~

1 (B) The department shall calculate the recycling rate for
2 purposes of paragraph (1) based on the 12-month period ending
3 on June 30 that directly precedes the date of the January 1
4 processing fee determination.

5 (2) *For purposes of this subdivision, “subject to the availability*
6 *of funds” means subject to the projected annual program revenues*
7 *being equal to or exceeding projected annual program expenditures*
8 *in the most recent fund condition statement provided to the*
9 *Legislature pursuant to Section 14556. This paragraph is*
10 *declaratory of existing law.*

11 (3) *Notwithstanding paragraph (2), the department shall not,*
12 *until April 1, 2017, find that funds are unavailable for purposes*
13 *of paragraph (1).*

14 (f) Not more than once every three months, the department may
15 make an adjustment in the amount of the processing payment
16 established pursuant to this section notwithstanding any change
17 in the amount of the processing fee established pursuant to this
18 section, for any beverage container, if the department makes the
19 following determinations:

20 (1) The statewide scrap value paid by processors for the material
21 type for the most recent available ~~12-month~~ *three-month* period
22 directly preceding the quarter in which the processing payment is
23 to be adjusted is 5 percent more or 5 percent less than the average
24 scrap value used as the basis for the processing payment currently
25 in effect.

26 (2) Funds are available in the processing fee account for the
27 material type.

28 (3) Adjusting the processing payment is necessary to further
29 the objectives of this division.

30 (g) (1) Except as provided in paragraphs (2) and (3), every
31 beverage manufacturer shall pay to the department the applicable
32 processing fee for each container sold or transferred to a distributor
33 or dealer within 40 days of the sale in the form and in the manner
34 which the department may prescribe.

35 (2) (A) Notwithstanding Section 14506, with respect to the
36 payment of processing fees for beer and other malt beverages
37 manufactured outside the state, the beverage manufacturer shall
38 be deemed to be the person or entity named on the certificate of
39 compliance issued pursuant to Section 23671 of the Business and
40 Professions Code. If the department is unable to collect the

1 processing fee from the person or entity named on the certificate
2 of compliance, the department shall give written notice by certified
3 mail, return receipt requested, to that person or entity. The notice
4 shall state that the processing fee shall be remitted in full within
5 30 days of issuance of the notice or the person or entity shall not
6 be permitted to offer that beverage brand for sale within the state.
7 If the person or entity fails to remit the processing fee within 30
8 days of issuance of the notice, the department shall notify the
9 Department of Alcoholic Beverage Control that the certificate
10 holder has failed to comply, and the Department of Alcoholic
11 Beverage Control shall prohibit the offering for sale of that
12 beverage brand within the state.

13 (B) The department shall enter into a contract with the
14 Department of Alcoholic Beverage Control, pursuant to Section
15 14536.5, concerning the implementation of this paragraph, which
16 shall include a provision reimbursing the Department of Alcoholic
17 Beverage Control for its costs incurred in implementing this
18 paragraph.

19 (3) (A) Notwithstanding paragraph (1), if a beverage
20 manufacturer displays a pattern of operation in compliance with
21 this division and the regulations adopted pursuant to this division,
22 to the satisfaction of the department, the beverage manufacturer
23 may make a single annual payment of processing fees, if the
24 beverage manufacturer meets either of the following conditions:

25 (i) If the redemption payment and refund value is not increased
26 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
27 beverage manufacturer's projected processing fees for a calendar
28 year total less than ten thousand dollars (\$10,000).

29 (ii) If the redemption payment and refund value is increased
30 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
31 beverage manufacturer's projected processing fees for a calendar
32 year total less than fifteen thousand dollars (\$15,000).

33 (B) An annual processing fee payment made pursuant to this
34 paragraph is due and payable on or before February 1 for every
35 beverage container sold or transferred by the beverage
36 manufacturer to a distributor or dealer in the previous calendar
37 year.

38 (C) A beverage manufacturer shall notify the department of its
39 intent to make an annual processing fee payment pursuant to this

1 paragraph on or before January 31 of the calendar year for which
2 the payment will be due.

3 (4) The department shall pay the processing payments on
4 redeemed containers to processors, in the same manner as it pays
5 refund values pursuant to Sections 14573 and 14573.5. The
6 processor shall pay the recycling center the entire processing
7 payment representing the actual costs and financial return incurred
8 by the recycling center, as specified in subdivision (b).

9 (h) When assessing processing fees pursuant to subdivision (a),
10 the department shall assess the processing fee on each container
11 sold, as provided in subdivisions (d) and (e), by the type of material
12 of the container, assuming that every container sold will be
13 redeemed for recycling, whether or not the container is actually
14 recycled.

15 (i) The container manufacturer, or a designated agent, shall pay
16 to, or credit, the account of the beverage manufacturer in an amount
17 equal to the processing fee.

18 (j) If, at the end of any calendar year for which glass recycling
19 rates equal or exceed 45 percent and sufficient surplus funds remain
20 in the glass processing fee account to make the reduction pursuant
21 to this subdivision or if, at the end of any calendar year for which
22 PET recycling rates equal or exceed 45 percent and sufficient
23 surplus funds remain in the PET processing fee account to make
24 the reduction pursuant to this subdivision, the department shall
25 use these surplus funds in the respective processing fee accounts
26 in the following calendar year to reduce the amount of the
27 processing fee that would otherwise be due from glass or PET
28 beverage manufacturers pursuant to this subdivision.

29 (1) The department shall reduce the glass or PET processing
30 fee amount pursuant to this subdivision in addition to any reduction
31 for which the glass or PET beverage container qualifies under
32 subdivision (e).

33 (2) The department shall determine the processing fee reduction
34 by dividing two million dollars (\$2,000,000) from each processing
35 fee account by an estimate of the number of containers sold or
36 transferred to a distributor during the previous calendar year, based
37 upon the latest available data.

38 *SEC. 4. Section 14575.2 is added to the Public Resources Code,*
39 *to read:*

1 14575.2. (a) Notwithstanding Section 14575, for purposes of
2 calculating processing payments on and after July 1, 2016, the
3 department shall use the actual cost of recycling that was in effect
4 on December 30, 2015. The department shall adjust the recycling
5 costs annually to reflect changes in the cost of living, as measured
6 by the Bureau of Labor Statistics of the United States Department
7 of Labor or a successor agency of the United States government.

8 (b) Notwithstanding subdivisions (d) and (e) of Section 14575,
9 on and after July 1, 2016, the department shall not impose a
10 processing fee on a beverage manufacturer that is higher than the
11 processing fee that would be imposed without this section.

12 (c) This section shall become inoperative on April 1, 2017, and,
13 as of January 1, 2018, is repealed, unless a later enacted statute,
14 that becomes operative on or before January 1, 2018, deletes or
15 extends the dates on which it becomes inoperative and is repealed.

16 SEC. 5. Section 14581 of the Public Resources Code is
17 amended to read:

18 14581. (a) Subject to the availability of funds and in
19 accordance with subdivision (b), the department shall expend the
20 moneys set aside in the fund, pursuant to subdivision (c) of Section
21 14580, for the purposes of this section in the following manner:

22 (1) (A) For each fiscal year, the department may expend the
23 amount necessary to make the required handling fee payment
24 pursuant to subdivisions (f) and (g) of Section 14585.

25 (B) Only after subparagraph (A) is funded for the 2016–17 fiscal
26 year, the department may expend up to three million dollars
27 (\$3,000,000) for supplemental incentive handling fee payments to
28 low-volume recycling centers pursuant to subdivision (h) of Section
29 14585.

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

33 (3) (A) Ten million five hundred thousand dollars (\$10,500,000)
34 may be expended annually for payments of five thousand dollars
35 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
36 to counties for beverage container recycling and litter cleanup
37 activities, or the department may calculate the payments to counties
38 and cities on a per capita basis, and may pay whichever amount
39 is greater, for those activities.

1 (B) Eligible activities for the use of these funds may include,
2 but are not necessarily limited to, support for new or existing
3 curbside recycling programs, neighborhood dropoff recycling
4 programs, public education promoting beverage container
5 recycling, litter prevention, and cleanup, cooperative regional
6 efforts among two or more cities or counties, or both, or other
7 beverage container recycling programs.

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

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

14 (E) The department shall annually prepare and distribute a
15 funding request form to each city, county, or city and county. The
16 form shall specify the amount of beverage container recycling and
17 litter cleanup funds for which the jurisdiction is eligible. The form
18 shall not exceed one double-sided page in length, and may be
19 submitted electronically. If a city, county, or city and county does
20 not return the funding request form within 90 days of receipt of
21 the form from the department, the city, county, or city and county
22 is not eligible to receive the funds for that funding cycle.

23 (F) For the purposes of this paragraph, per capita population
24 shall be based on the population of the incorporated area of a city
25 or city and county and the unincorporated area of a county. The
26 department may withhold payment to any city, county, or city and
27 county that has prohibited the siting of a supermarket site, caused
28 a supermarket site to close its business, or adopted a land use policy
29 that restricts or prohibits the siting of a supermarket site within its
30 jurisdiction.

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

34 (5) (A) The department shall expend the amount necessary to
35 pay the processing payment established pursuant to Section 14575.
36 The department shall establish separate processing fee accounts
37 in the fund for each beverage container material type for which a
38 processing payment and processing fee are calculated pursuant to
39 Section 14575, or for which a processing payment is calculated
40 pursuant to Section 14575 and a voluntary artificial scrap value is

1 calculated pursuant to Section 14575.1, into which account shall
2 be deposited both of the following:

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

5 (ii) Funds equal to the difference between the amount in clause
6 (i) and the amount of the processing payments established in
7 subdivision (b) of Section 14575, and adjusted pursuant to
8 paragraph (2) of subdivision (c) of, and subdivision (f) of, Section
9 14575, to reduce the processing fee to the level provided in
10 subdivision (e) of Section 14575, or to reflect the agreement by a
11 willing purchaser to pay a voluntary artificial scrap value pursuant
12 to Section 14575.1.

13 (B) Notwithstanding Section 13340 of the Government Code,
14 the moneys in each processing fee account are hereby continuously
15 appropriated to the department for expenditure without regard to
16 fiscal years, for purposes of making processing payments pursuant
17 to Section 14575.

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

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

25 (8) (A) Up to ten million dollars (\$10,000,000) may be
26 expended annually by the department for market development
27 payments for empty plastic beverage containers pursuant to Section
28 14549.2, until January 1, 2017.

29 (B) In addition to the amount specified in subparagraph (A),
30 the department may expend the amount calculated pursuant to
31 subparagraph (C) for market development payments for empty
32 plastic beverage containers pursuant to Section 14549.2.

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

35 (i) The department shall determine, on or before January 1,
36 2012, and annually thereafter, whether the amount of funds
37 estimated to be necessary pursuant to clause (ii) of subparagraph
38 (A) of paragraph (6) for deposit to a processing fee account
39 established by the department for plastic beverage containers to
40 make processing payments for plastic beverage containers for the

1 current calendar year is less than the total amount of funds that
2 were estimated to be necessary the previous calendar year pursuant
3 to clause (ii) of subparagraph (A) of paragraph (6) for deposit to
4 that processing fee account.

5 (ii) If the amount estimated to be necessary for the current
6 calendar year, as specified in clause (i), is less than the amount
7 estimated to be necessary for the previous calendar year, the
8 department shall calculate the amount of that difference.

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

12 (iv) If the department determines that the amount of funds
13 authorized for expenditure pursuant to this subparagraph is not
14 needed to make plastic market development payments pursuant to
15 subparagraph (B) in the calendar year for which that amount is
16 allocated, the department may expend those funds during the
17 following year.

18 (v) If the department determines that there are insufficient funds
19 to both make the market development payments pursuant to
20 subparagraph (B) and to deposit the amount required by clause (ii)
21 of subparagraph (A) of paragraph (6), for purposes of making the
22 processing payments and reducing the processing fees pursuant to
23 Section 14575 for plastic beverage containers, the department shall
24 suspend the implementation of this subparagraph and subparagraph
25 (B).

26 (D) Subparagraphs (B) and (C) shall remain operative only until
27 January 1, 2017.

28 (b) (1) If the department determines, pursuant to a review made
29 pursuant to Section 14556, that there may be inadequate funds to
30 pay the payments required by this division, the department shall
31 immediately notify the appropriate policy and fiscal committees
32 of the Legislature regarding the inadequacy.

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

37 (c) If the department determines that there are insufficient funds
38 to make the payments specified pursuant to this section and Section
39 14575, the department shall reduce all payments proportionally.

1 (d) Prior to making an expenditure pursuant to paragraph (6) of
2 subdivision (a), the department shall convene an advisory
3 committee consisting of representatives of the beverage industry,
4 beverage container manufacturers, environmental organizations,
5 the recycling industry, nonprofit organizations, and retailers to
6 advise the department on the most cost-effective and efficient
7 method of the expenditure of the funds for that education and
8 information campaign.

9 (e) Subject to the availability of funds, the department shall
10 retroactively pay in full any payments provided in this section that
11 have been proportionally reduced during the period of January 1,
12 2010, through June 30, 2010.

13 (f) *This section shall become inoperative on April 1, 2017, and,*
14 *as of January 1, 2018, is repealed, unless a later enacted statute,*
15 *that becomes operative on or before January 1, 2018, deletes or*
16 *extends the dates on which it becomes inoperative and is repealed.*

17 SEC. 6. *Section 14585 of the Public Resources Code is*
18 *amended to read:*

19 14585. (a) The department shall adopt guidelines and methods
20 for paying handling fees to supermarket sites, nonprofit
21 convenience zone recyclers, or rural region recyclers to provide
22 an incentive for the redemption of empty beverage containers in
23 convenience zones. The guidelines shall include, but not be limited
24 to, all of the following:

25 (1) Handling fees shall be paid on a monthly basis, in the form
26 and manner adopted by the department. The department shall
27 require that claims for the handling fee be filed with the department
28 not later than the first day of the second month following the month
29 for which the handling fee is claimed as a condition of receiving
30 any handling fee.

31 (2) The department shall determine the number of eligible
32 containers per site for which a handling fee will be paid in the
33 following manner:

34 (A) Each eligible site's combined monthly volume of glass and
35 plastic beverage containers shall be divided by the site's total
36 monthly volume of all empty beverage container types.

37 (B) If the quotient determined pursuant to subparagraph (A) is
38 equal to, or more than, 10 percent, the total monthly volume of
39 the site shall be the maximum volume which is eligible for a
40 handling fee for that month.

1 (C) If the quotient determined pursuant to subparagraph (A) is
2 less than 10 percent, the department shall divide the volume of
3 glass and plastic beverage containers by 10 percent. That quotient
4 shall be the maximum volume that is eligible for a handling fee
5 for that month.

6 (3) ~~(A) On and after the effective date of the act amending this~~
7 ~~section during the 2011-12 2015-16 Regular Session, and until~~
8 ~~March April 1, 2013, 2017, the department shall pay a handling~~
9 ~~fee per eligible container in the amount determined pursuant to~~
10 ~~subdivisions (f) and (g).~~

11 ~~(B) On and after July 1, 2014, the department shall pay a~~
12 ~~handling fee per eligible container in the amount determined~~
13 ~~pursuant to subdivision (f).~~

14 (4) If the eligible volume in any given month would result in
15 handling fee payments that exceed the allocation of funds for that
16 month, as provided in subdivision (b), sites with higher eligible
17 monthly volumes shall receive handling fees for their entire eligible
18 monthly volume before sites with lower eligible monthly volumes
19 receive any handling fees.

20 (5) (A) If a dealer where a supermarket site, nonprofit
21 convenience zone recycler, or rural region recycler is located ceases
22 operation for remodeling or for a change of ownership, the operator
23 of that supermarket site nonprofit convenience zone recycler, or
24 rural region recycler shall be eligible to apply for handling fees
25 for that site for a period of three months following the date of the
26 closure of the dealer.

27 (B) Every supermarket site operator, nonprofit convenience
28 zone recycler, or rural region recycler shall promptly notify the
29 department of the closure of the dealer where the supermarket site,
30 nonprofit convenience zone recycler, or rural region recycler is
31 located.

32 (C) Notwithstanding subparagraph (A), any operator who fails
33 to provide notification to the department pursuant to subparagraph
34 (B) shall not be eligible to apply for handling fees.

35 (b) The department may allocate the amount authorized for
36 expenditure for the payment of handling fees pursuant to
37 *subparagraph (A) of paragraph (1) of subdivision (a) of Section*
38 *14581* on a monthly basis and may carry over any unexpended
39 monthly allocation to a subsequent month or months. However,
40 unexpended monthly allocations shall not be carried over to a

1 subsequent fiscal year for the purpose of paying handling fees but
2 may be carried over for any other purpose pursuant to Section
3 14581.

4 (c) (1) The department shall not make handling fee payments
5 to more than one certified recycling center in a convenience zone.
6 If a dealer is located in more than one convenience zone, the
7 department shall offer a single handling fee payment to a
8 supermarket site located at that dealer. This handling fee payment
9 shall not be split between the affected zones. The department shall
10 stop making handling fee payments if another recycling center
11 certifies to operate within the convenience zone without receiving
12 payments pursuant to this section, if the department monitors the
13 performance of the other recycling center for 60 days and
14 determines that the recycling center is in compliance with this
15 division. Any recycling center that locates in a convenience zone,
16 thereby causing a preexisting recycling center to become ineligible
17 to receive handling fee payments, is ineligible to receive any
18 handling fee payments in that convenience zone.

19 (2) The department shall offer a single handling fee payment
20 to a rural region recycler located anywhere inside a convenience
21 zone, if that convenience zone is not served by another certified
22 recycling center and the rural region recycler does either of the
23 following:

24 (A) Operates a minimum of 30 hours per week in one
25 convenience zone.

26 (B) Serves two or more convenience zones, and meets all of the
27 following criteria:

28 (i) Is the only certified recycler within each convenience zone.

29 (ii) Is open and operating at least eight hours per week in each
30 convenience zone and is certified at each location.

31 (iii) Operates at least 30 hours per week in total for all
32 convenience zones served.

33 (d) The department may require the operator of a supermarket
34 site or rural region recycler receiving handling fees to maintain
35 records for each location where beverage containers are redeemed,
36 and may require the supermarket site or rural region recycler to
37 take any other action necessary for the department to determine
38 that the supermarket site or rural region recycler does not receive
39 an excessive handling fee.

1 (e) The department may determine and utilize a standard
2 container per pound rate, for each material type, for the purpose
3 of calculating volumes and making handling fee payments.

4 (f) (1) On or before January 1, 2008, and every two years
5 thereafter, the department shall conduct a survey pursuant to this
6 subdivision of a statistically significant sample of certified
7 recycling centers that receive handling fee payments to determine
8 the actual cost incurred for the redemption of empty beverage
9 containers by those certified recycling centers. The department
10 shall conduct these cost surveys in conjunction with the cost
11 surveys performed by the department pursuant to subdivision (b)
12 of Section 14575 to determine processing payments and processing
13 fees. The department shall include, in determining the actual costs,
14 only those allowable costs contained in the regulations adopted
15 pursuant to this division that are used by the department to conduct
16 cost surveys pursuant to subdivision (b) of Section 14575.

17 (2) Using the information obtained pursuant to paragraph (1),
18 the department shall then determine the statewide weighted average
19 cost incurred for the redemption of empty beverage containers,
20 per empty beverage container, at recycling centers that receive
21 handling fees.

22 (3) Except as provided in subdivision (g), the department shall
23 determine the amount of the handling fee to be paid for each empty
24 beverage container by subtracting the amount of the statewide
25 weighted average cost per container to redeem empty beverage
26 containers by recycling centers that do not receive handling fees
27 from the amount of the statewide weighted average cost per
28 container determined pursuant to paragraph (2).

29 (4) The department shall adjust the statewide average cost
30 determined pursuant to paragraph (2) for each beverage container
31 annually to reflect changes in the cost of living, as measured by
32 the Bureau of Labor Statistics of the United States Department of
33 Labor or a successor agency of the United States government.

34 (5) The cost information collected pursuant to this section at
35 recycling centers that receive handling fees shall not be used in
36 the calculation of the processing payments determined pursuant
37 to Section 14575.

38 (g) (1) On and after the effective date of the act amending this
39 section during the ~~2011-12~~ 2015-16 Regular Session, and until
40 ~~March~~ April 1, ~~2013~~, 2017, the per-container handling fee shall

1 not be less than the amount of the per-container handling fee that
2 was in effect on July 1, ~~2014~~, 2015.

3 (2) The department may update the methodology and scrap
4 values used for calculating the handling fee from the most recent
5 cost survey if it finds that the handling fee resulting from the most
6 recent cost survey does not accurately represent the actual cost
7 incurred for the redemption of empty beverage containers by those
8 certified recycling centers.

9 (h) (1) *For the 2016–17 fiscal year, the department may expend*
10 *up to three million dollars (\$3,000,000) from the fund for*
11 *supplemental incentive handling fee payments to low-volume*
12 *recycling centers. The department shall allocate the amount*
13 *authorized for these supplemental incentive handling fee payments*
14 *into 12 equal monthly allotments.*

15 (2) *Supplemental incentive handling fee payments shall be*
16 *distributed once per month in equal amounts to recycling centers*
17 *that are eligible for handling fees pursuant to subdivision (a),*
18 *subject to all of the following requirements:*

19 (A) *A recycling center shall not receive supplemental incentive*
20 *handling fee payments pursuant to this subdivision unless the*
21 *recycling center has no more than 600,000 beverage containers*
22 *eligible for handling fees per month.*

23 (B) (i) *Payments shall be distributed first to no more than 100*
24 *recycling centers with the lowest volumes of beverage containers*
25 *that are located in rural regions.*

26 (ii) *After payments are distributed pursuant to clause (i),*
27 *payments shall be distributed to other recycling centers with the*
28 *lowest volumes of beverage containers.*

29 (iii) *No more than 400 recycling centers shall receive*
30 *supplemental incentive handling fee payments pursuant to this*
31 *subdivision.*

32 (3) *The department may make the supplemental incentive*
33 *handling fee payments authorized pursuant to this subdivision by*
34 *augmenting handling fee payments received by recyclers pursuant*
35 *to subdivision (f) or (g) of this section.*

36 (4) *For the purposes of this subdivision, “rural region” has the*
37 *same meaning as in Section 14588.1.*

38 *SEC. 7. This act is a bill providing for appropriations related*
39 *to the Budget Bill within the meaning of subdivision (e) of Section*
40 *12 of Article IV of the California Constitution, has been identified*

- 1 *as related to the budget in the Budget Bill, and shall take effect*
- 2 *immediately.*
- 3 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
- 4 ~~changes, relating to the Budget Act of 2016.~~

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