

AMENDED IN SENATE SEPTEMBER 1, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1149

Introduced by Assembly Members Gordon and Wieckowski

February 18, 2011

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 1149, as amended, Gordon. Beverage containers: recycling and litter reduction: funds.

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 to the Department of Resources Recycling and Recovery for deposit in the California Beverage Container Recycling Fund. After setting aside funds for the payment of refund values and administrative fees, and for a reserve for contingencies, the remaining moneys in the fund are continuously appropriated to the department for expenditure for designated programs, grants, and fee payments, including annually expending up to \$10,000,000 to make market development payments for empty plastic beverage containers, until January 1, 2012. *The department is authorized to expend up to \$20,000,000 annually, until January 1, 2012, for recycling market development grants and up to \$20,000,000 annually, until January 1, 2012, for certain grants and programs, but is prohibited from expending those funds for the 2010 and 2011 calendar years. The department is also required to publish an evaluation of those grants by January 1, 2014.* Existing law requires

the department to determine the amount of the market development payment, but not more than a specified amount per ton. *The department is required to establish a processing fee account for each material type and to deposit in the account, besides the processing fees paid for that material type, a specified amount of the remaining moneys in the fund.*

The bill would require the department, in setting the amount of the market development payments for both certified entities and product manufacturers, to consider certain factors and would extend the authorization *to annually expend up to \$10,000,000* to make these payments until January 1, 2017, thereby making an appropriation.

The bill would authorize the department to expend from the remaining moneys in the fund, until January 1, 2017, an amount for market development payments for empty plastic beverage containers, in addition to the existing authorization. The bill would require the department to calculate this additional amount, in a specified manner, based upon the amount of the remaining moneys in the fund estimated to be necessary for deposit in the processing fee account for plastic beverage containers.

The bill would delete the authorization to expend funds for recycling market development grants and for those other grants and programs and would repeal the requirement for the publication of the grant evaluation.

Vote: majority. 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 any 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

1 certified entity or product manufacturer for empty plastic beverage
2 containers collected and managed pursuant to this section.

3 (c) The department shall make a market development payment
4 to a certified entity or product manufacturer in accordance with
5 this section, only if the plastic beverage container is collected and
6 either recycled or used in manufacturing, in the state, as follows:

7 (1) The department shall make a market development payment
8 to a certified entity for empty plastic beverage containers that are
9 collected for recycling in the state, that are subsequently washed
10 and processed by a certified entity into a flake, pellet, or other
11 form in the state, and made usable for the manufacture of a plastic
12 product by a product manufacturer.

13 (2) The department shall make a market development payment
14 to a product manufacturer for empty plastic beverage containers
15 that are collected for recycling in the state, that are subsequently
16 washed and processed into a flake, pellet or other form in the state,
17 and used by that product manufacturer to manufacture a product
18 in this state.

19 (3) The department shall determine the amount of the market
20 development payment, which may be set at a different level for a
21 certified entity and a product manufacturer, but shall not exceed
22 one hundred fifty dollars (\$150) per ton. In setting the amount of
23 the market development payment for both certified entities and
24 product manufacturers, the department shall consider all of the
25 following:

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

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

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

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

38 (d) This section shall remain in effect only until January 1, 2017,
39 and as of that date is repealed, unless a later enacted statute, that
40 is enacted before January 1, 2017, deletes or extends that date.

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

3 14581. (a) Subject to the availability of funds and in
4 accordance with subdivision (c), the department shall expend the
5 moneys set aside in the fund, pursuant to subdivision (c) of Section
6 14580, for the purposes of this section in the following manner:

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

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

13 (3) (A) Fifteen million dollars (\$15,000,000), plus the
14 proportional share of the cost-of-living adjustment, as provided in
15 subdivision (b), shall be expended annually in the form of grants
16 for beverage container litter reduction programs and recycling
17 programs issued to either of the following:

18 (i) Certified community conservation corps that were in
19 existence on September 30, 1999, or that are formed subsequent
20 to that date, that are designated by a city or a city and county to
21 perform litter abatement, recycling, and related activities, if the
22 city or the city and county has a population, as determined by the
23 most recent census, of more than 250,000 persons.

24 (ii) Community conservation corps that are designated by a
25 county to perform litter abatement, recycling, and related activities,
26 and are certified by the California Conservation Corps as having
27 operated for a minimum of two years and as meeting all other
28 criteria of Section 14507.5.

29 (B) The grants provided pursuant to this paragraph shall not
30 comprise more than 75 percent of the annual budget of a
31 community conservation corps.

32 (C) For the 2009–10 fiscal year only, the eight million two
33 hundred fifty thousand dollars (\$8,250,000) appropriated to the
34 California Conservation Corps for certified local conservation
35 corps by Item 3340-101-0133 of Sec. 2.00 of the 2009–10 Budget
36 Act, as added by Section 166 of Chapter 1 of the Fourth
37 Extraordinary Session of the Statutes of 2009, shall be in addition
38 to the amounts expended pursuant to this paragraph.

39 (4) (A) Ten million five hundred thousand dollars (\$10,500,000)
40 may be expended annually for payments of five thousand dollars

1 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
2 to counties for beverage container recycling and litter cleanup
3 activities, or the department may calculate the payments to counties
4 and cities on a per capita basis, and may pay whichever amount
5 is greater, for those activities.

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

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

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

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

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

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

1 (B) Notwithstanding subdivision (f), the department shall not
2 expend funds pursuant to this paragraph for the 2010 and 2011
3 calendar years.

4 (6) (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 (C) Notwithstanding the other provisions of this section and
29 Section 14575, for the 2010 and 2011 calendar years, the total
30 amount that the department may expend to reduce the amount of
31 processing fees for each container type shall not exceed the total
32 amount expended to reduce processing fees in the 2008 calendar
33 year.

34 (7) (A) Up to five million dollars (\$5,000,000) may be annually
35 expended by the department for the purposes of undertaking a
36 statewide public education and information campaign aimed at
37 promoting increased recycling of beverage containers.

38 (B) Notwithstanding subdivision (f), the department shall not
39 expend funds pursuant to this paragraph for the 2010 and 2011
40 calendar years.

1 (8) Up to ten million dollars (\$10,000,000) may be expended
2 annually by the department for quality incentive payments for
3 empty glass beverage containers pursuant to Section 14549.1.

4 ~~(9) Up to twenty million dollars (\$20,000,000) may be expended~~
5 ~~annually by the department, until January 1, 2012, to issue grants~~
6 ~~for recycling market development and expansion-related activities~~
7 ~~aimed at increasing the recycling of beverage containers.~~
8 ~~Notwithstanding subdivision (f), the department shall not expend~~
9 ~~any funds pursuant to this paragraph for the 2010 and 2011~~
10 ~~calendar years. The activities that may be funded include, but are~~
11 ~~not limited to, the following:~~

12 ~~(A) Research and development of collecting, sorting, processing,~~
13 ~~cleaning, or otherwise upgrading the market value of recycled~~
14 ~~beverage containers.~~

15 ~~(B) Identification, development, and expansion of markets for~~
16 ~~recycled beverage containers.~~

17 ~~(C) Research and development for products manufactured using~~
18 ~~recycled beverage containers.~~

19 ~~(D) Research and development to provide high-quality materials~~
20 ~~that are substantially free of contamination.~~

21 ~~(E) Payments to California manufacturers who recycle beverage~~
22 ~~containers that are marked by resin type identification code “3,”~~
23 ~~“4,” “5,” “6,” or “7,” pursuant to Section 18015.~~

24 ~~(10)~~

25 (9) (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 ~~(11) (A) Up to twenty million dollars (\$20,000,000) may be~~
30 ~~expended from July 1, 2009, to January 1, 2012, inclusive, for~~
31 ~~either of the following:~~

32 ~~(i) Grants for beverage container recycling and litter reduction~~
33 ~~programs that emphasize the greatest and most effective collection~~
34 ~~of beverage containers per dollar spent to ensure the program’s~~
35 ~~performance and accountability.~~

36 ~~(ii) Focused, regional community beverage container recycling~~
37 ~~and litter reduction programs that enable the department to more~~
38 ~~effectively organize the amount and type of resources needed for~~
39 ~~regional and statewide efforts to increase recycling.~~

1 ~~(B) The department shall require, as a condition of receiving~~
2 ~~grant funds pursuant to subparagraph (A), each grant recipient to~~
3 ~~submit a final report including, but not limited to, the grant~~
4 ~~recipient's reported volumes of beverage containers recycled,~~
5 ~~where applicable.~~

6 ~~(C) On or before July 1, 2014, the department shall publish an~~
7 ~~evaluation of all grants made pursuant to subparagraph (A). At a~~
8 ~~minimum, the evaluation shall summarize each final report~~
9 ~~submitted by each grantee pursuant to subparagraph (B) and assess~~
10 ~~whether the grantee adequately met the scope and objectives~~
11 ~~outlined in the grant agreement.~~

12 ~~(D) Notwithstanding subdivision (f), the department shall not~~
13 ~~expend funds pursuant to this paragraph for the 2010 and 2011~~
14 ~~calendar years.~~

15 *(B) On and after January 1, 2012, in addition to the amount*
16 *specified in subparagraph (A), the department may expend the*
17 *amount calculated pursuant to subparagraph (C) for market*
18 *development payments for empty plastic beverage containers*
19 *pursuant to Section 14549.2.*

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

22 *(i) The department shall determine, on or before January 1,*
23 *2012, and annually thereafter, whether the amount of funds*
24 *estimated to be necessary pursuant to clause (ii) of subparagraph*
25 *(A) of paragraph (6) for deposit to a processing fee account*
26 *established by the department for plastic beverage containers to*
27 *make processing payments for plastic beverage containers for the*
28 *current calendar year is less than the total amount of funds that*
29 *were estimated to be necessary the previous calendar year pursuant*
30 *to clause (ii) of subparagraph (A) of paragraph (6) for deposit to*
31 *that processing fee account.*

32 *(ii) If the amount estimated to be necessary for the current*
33 *calendar year, as specified in clause (i), is less than the amount*
34 *estimated to be necessary for the previous calendar year, the*
35 *department shall calculate the amount of that difference.*

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

39 *(iv) If the department determines that the amount of funds*
40 *authorized for expenditure pursuant to this subparagraph is not*

1 *needed to make plastic market development payments pursuant to*
2 *subparagraph (B) in the calendar year for which that amount is*
3 *allocated, the department may expend those funds during the*
4 *following year.*

5 (v) *If the department determines that there are insufficient funds*
6 *to both make the market development payments pursuant to*
7 *subparagraph (B) and to deposit the amount required by clause*
8 *(ii) of subparagraph (A) of paragraph (6), for purposes of making*
9 *the processing payments and reducing the processing fees pursuant*
10 *to Section 14575 for plastic beverage containers, the department*
11 *shall suspend the implementation of this subparagraph and*
12 *subparagraph (B).*

13 (D) *Subparagraphs (B) and (C) shall remain operative only*
14 *until January 1, 2017.*

15 (b) The fifteen million dollars (\$15,000,000) that is set aside
16 pursuant to paragraph (3) of subdivision (a) is a base amount that
17 the department shall adjust annually to reflect any increases or
18 decreases in the cost of living, as measured by the Department of
19 Labor, or a successor agency, of the federal government.

20 (c) (1) If the department determines, pursuant to a review made
21 pursuant to Section 14556, that there may be inadequate funds to
22 pay the payments required by this division, the department shall
23 immediately notify the appropriate policy and fiscal committees
24 of the Legislature regarding the inadequacy.

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

29 (d) If the department determines that there are insufficient funds
30 to make the payments specified pursuant to this section and Section
31 14575, the department shall reduce all payments proportionally.

32 (e) Prior to making an expenditure pursuant to paragraph (7) of
33 subdivision (a), the department shall convene an advisory
34 committee consisting of representatives of the beverage industry,
35 beverage container manufacturers, environmental organizations,
36 the recycling industry, nonprofit organizations, and retailers to
37 advise the department on the most cost-effective and efficient
38 method of the expenditure of the funds for that education and
39 information campaign.

1 (f) Subject to the availability of funds, the department shall
2 retroactively pay in full any payments provided in this section that
3 have been proportionally reduced during the period of January 1,
4 2010, through June 30, 2010.

O