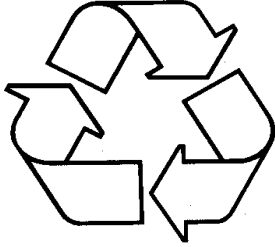


Regional Solid Waste Association

Supplemental Documents for the October 6, 2022 Board of Directors' Meeting

Item #8.B.



REGIONAL SOLID WASTE ASSOCIATION

Member Agencies: Cities of Del Mar, Encinitas, Escondido,
National City, Poway, Solana Beach, and Vista

To: RSWA Board Members
From: General Manager/General Counsel James H. Eggart
Subject: Legislative Update
Date: October 6, 2022

The following is a summary of select recently enacted legislation pertinent to RSWA, organized by topic. Those bills and initiative measures that were covered in previous legislative updates, but which were vetoed or failed to pass, are also listed at the end. Those bills which are most pertinent to RSWA will be discussed in more detail at the meeting.

BILLS SIGNED INTO LAW

I. PLASTIC / PACKAGING WASTE REDUCTION

A. Senate Bill (SB) 54 – Single-Use Packaging and Plastic Single-Use Food Ware [Allen (D)]

SB 54 was signed into law by the Governor on June 30, 2022. It established the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which imposes minimum content requirements for single-use packaging and plastic food service ware and source reduction requirements for plastic single-use packaging and plastic food service ware, to be achieved through an extended producer responsibility (EPR) program. SB 54's pertinent provisions are summarized below.

Covered Materials

The “covered materials” to which SB 54 applies include most types of single-use packaging (including packaging made of paper, plastic, expanded polystyrene, glass, or metal) and single-use food ware made of plastic or paperboard that is coated or infused with plastic.

Single-use packaging: SB 54 covers many types of single-use packaging, which is broadly defined as material that is routinely recycled, disposed of, or discarded after its contents have been used or unpackaged (and typically not refilled or reused). Some types of product packaging are exempt from new rules, including packaging for human and animal medical products, infant formula, and fortified oral nutritional supplements; packaging used to contain products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act or classified as dangerous or hazardous under federal regulations; and packaging used for paint protection/conservation and long-term product protection or storage.

Single-use plastic food service ware: The types of single-use food ware covered include trays, plates, bowls, clamshells, lids, cups, utensils, stirrers, hinged or lidded containers, and straws, as well as wraps and wrappers and bags sold to food service establishments. Plastic beverage containers (such as plastic water or soda bottles) are not covered by SB 54, since these are subject to separate provisions of the California Beverage Container Recycling and Litter Reduction Act (i.e., the “Bottle Bill”).

Producers

Most of SB 54’s new requirements apply to “producers” of single-use packaging and single-use plastic food service ware sold, used, or distributed in the state. A “producer” includes anyone who manufactures a product that uses a covered material and who owns the license or brand for that product sold, distributed or used in California. If there is not such an entity for a particular product, then the “producer” of that product is the exclusive licensee of the brand in the state, or the distributor or retailer of the product in or into the state. Small producers, retailers, or wholesalers that had gross sales of less than \$1 Million in the state in the most recent calendar year will generally be exempt from most of the Act’s requirements, but even these small producers will be subject to the Act’s requirement that covered material sold, distributed, or imported into the state on or after January 1, 2032, be recyclable or compostable.

Recyclability Requirement Applicable to All Covered Materials

SB 54 requires all producers to ensure that all single-use packaging and plastic single-use food ware they offer for sale, distribute, or import into the state on and after January 1, 2032, is recyclable in the state or eligible to be labeled “compostable.” Small producers, retailers, and wholesalers will *not* be exempt from this requirement.

Plastics Recycling Rate Requirements

SB 54 requires producers of *plastic* covered materials they offer for sale, distribute, or import into the state to ensure the following recycling rates are met with respect to such materials:

- Not less than 30% on and after January 1, 2028.
- Not less than 40% on and after January 1, 2030.
- Not less than 65% on and after January 1, 2032.

These recycling rates may be temporarily adjusted up or down by CalRecycle by up to 10% for a covered material category if CalRecycle determines that current unforeseen and anomalous market conditions, such as recycling infrastructure conditions, warrant such an adjustment.

EPS Food Service Ware Recycling Requirements

SB 54 prohibits a producer of expanded polystyrene (EPS) food service ware (such as Styrofoam cups and clamshells) from selling, offering for sale, distributing, or importing such EPS food service ware in or into the state unless the producer demonstrates that *all* EPS meets the following recycling rates:

- 25% on and after January 1, 2025.
- 30% on and after January 1, 2028.
- 50% on and after January 1, 2030.
- 65% on and after January 1, 2032.

Presently, most EPS is not recyclable. Therefore, absent rapid technological and manufacturing changes that make these minimum recycling thresholds achievable, this requirement may effectively operate as be a ban on EPS food service ware.

Source Reduction Requirements for Plastic Covered Material

SB 54 requires producers of *plastic* covered materials to prepare and implement a plan (through the PRO formed by the producers) to achieve a 25% reduction by weight and 25% reduction by plastic component source reduction by January 1, 2032. At least 10% of the required 25% source reduction must be through shifting a plastic covered material to refillable or reusable packaging or food service ware or through eliminating a plastic component. The remaining portion of the required 25% source reduction can be achieved through concentration, right-sizing, lightweighting, or shifting to bulk or large format packaging that allows consumers to refill home or commercial reusable containers; shifting from a plastic covered material to a non-plastic covered material; or through increasing postconsumer recycled content. The statute also sets interim source reduction targets of 10% by January 1, 2027, and 20% by January 1, 2030.

Producer Responsibility Organization

Under SB 54, by January 1, 2024, “producers” of “covered materials” must form and join a producer responsibility organization (“PRO”) to carry out the requirements of the Act. The PRO must be approved by CalRecycle and must submit and implement a producer responsibility plan approved by CalRecycle, which describe how the PRO will comply with the SB 54’s requirements and provide for achievement of SB 54’s source reduction requirements. The PRO will also be required to submit annual reports to CalRecycle, register and participate in CalRecycle’s reporting system and submit specified information about covered material for each producer in the PRO, establish a fee for its participants that is sufficient to implement the requirements of the Act, pay CalRecycle a quarterly circular economy administrative fee that is sufficient to cover all state agency actual and reasonable costs to implement and enforce the Act, and pay \$500 million per year for 10 years into a newly established fund – the California Plastic Pollution Mitigation Fund. Individual producers meeting specified requirements may submit their own plan to CalRecycle, rather than joining a PRO, if they so choose.

CalRecycle Regulations and Authority

Regulations: SB 54 requires CalRecycle to adopt regulations necessary to implement and enforce the Act by January 1, 2025. CalRecycle’s regulations must encourage recycling that minimizes hazardous waste generation, greenhouse gas emissions, environmental justice impacts, and public health impacts and must exclude plastic recycling technologies that generate significant amounts of hazardous waste. CalRecycle is also authorized to adopt regulations to define guidelines and verification requirements for covered material shipped out of state or exported and regulations that require producers or the PRO to achieve SB 54’s recycling rates and source reduction requirements if they fail to do so voluntarily.

Other CalRecycle Obligations: SB 54 also requires CalRecycle to do the following:

- By January 1, 2024, publish a list of covered material categories that are deemed recyclable or compostable as of January 1, 2024, and update this list annually.
- Establish and post a list of covered material categories by July 1, 2024.
- Conduct specified material characterization studies, beginning on or before July 1, 2025.
- Begin calculating and posting recycling rates for each covered material category by January 1, 2026.
- Report to the Legislature every two years regarding its progress in implementing the Act.
- Develop one or more needs assessments to determine the necessary steps and investments necessary to achieve the requirements of the Act, to be updated every five years.

Enforcement: SB 54 authorizes CalRecycle to conduct investigations, inspections, and audits to determine compliance with the Act and to levy penalties of up to \$50,000 per day against the PRO, producers, wholesalers, and retailers for violations.

New Obligations Imposed on Local Jurisdictions and Recycling Service Providers

Under SB 54, local jurisdictions and recycling service providers are required to include all “covered material” in their collection and recycling programs (subject to certain exceptions). This may require cities and waste haulers to accept materials for recycling that are currently designated as nonrecyclable trash and to process, sort, and transport these materials. This will result in increased costs for local jurisdictions and recycling service providers; however, the Act contemplates that local jurisdictions and recycling service providers will recover these additional costs from producers through the fees charged to producers and a reimbursement mechanism to be determined through the plan prepared by the PRO and approved by CalRecycle.

B. Senate Bill (SB) 1046 – Pre-Checkout Bags [Eggman (D)]

Beginning January 1, 2025, SB 1046 bans the non-compostable plastic “pre-checkout” bags customers of many grocery and other retail food stores currently use to wrap fruit, vegetables, nuts, meat, and similar products. Instead, stores will only be able to offer recycled paper pre-checkout bags or pre-checkout bags that are actually compostable (not just biodegradable or decomposable). SB 1046 also prohibits all retailers from using *non-compostable* pre-checkout and carry-out bags with green, brown, or beige tinting, which the statute says wrongly implies that such bags will break down, fragment, biodegrade, or decompose in a landfill or other environment. According to the bill’s author, SB 1046 will help reduce composting contamination issues and provide consumers with bags that will facilitate residential food waste collection to help the state achieve its SB 1383 goals.

II. BEVERAGE CONTAINERS

A. Senate Bill (SB) 38 – Bottle Bill Amendments [Wieckowski (D)]

SB 38 makes the following two minor changes to the Bottle Bill: (1) it requires processors to make CRV payments to recycling centers, curbside programs, and dropoff or collection programs electronically or by check only (cash payments would no longer be allowed); and (2) it requires CalRecycle to study and develop a system or process to address the issue of glass contamination in glass food and beverage containers to improve the quality of glass material collected.

B. Senate Bill (SB) 895 – Nonprofit Convenience Zone Recycler [Laird (D)]

SB 895 amends the Bottle Bill to reduce restrictions on nonprofit convenience zone recyclers. Specially, the bill revises the criteria for, and expands the above definition of, a nonprofit convenience zone recycler by deleting the requirement that the recycling center operate in the same location for a period of not less than 5 years and allowing the recycling center to be located within 2 miles, rather than one mile, of a supermarket that is in an exempt convenience zone.

III. HOUSEHOLD HAZARDOUS WASTE / BATTERIES

A. Assembly Bill (AB) 2440 – Batteries [Assm. Irwin (D)]

AB 2440 establishes the Responsible Battery Recycling Act of 2022 (Act), which creates an extended producer responsibility program funded by battery producers for the collection and recycling of loose batteries. Batteries covered by the Act include single use alkaline and lithium batteries and rechargeable lithium metal, nickel cadmium, and nickel metal hydride batteries of various sizes (AAA, AA, C, D, button cell, 9-Volt, and small sealed lead-acid batteries). CalRecycle is required to adopt implementing regulations no later than April 1, 2025, and battery producers must have an approved stewardship plan in place within two years after that.

B. Senate Bill (SB) 1215 – Battery-Embedded Products [Newman (D)]

The Electronic Waste Recycling Act of 2003 (EWRA) established an “e-waste” take-back program for consumers to return, recycle, and ensure the safe and environmentally sound disposal of video display devices, such as televisions and computer monitors, that are hazardous wastes when discarded. SB 1215 expands this existing EWRA e-waste program to also include battery-embedded products, such as laptops, smart phones, digital cameras, game consoles, and cordless power tools. This expanded e-waste program will be funded by consumers through a fee on new battery-embedded products that will be established by CalRecycle.

C. Assembly Bill (AB) AB 732 – Mercury Thermostat Recycling [Quirk (D)]

AB 732 makes minor changes to the Mercury Thermostat Collection Act of 2021, which was enacted last year via AB 707. The Mercury Thermostat Collection Act of 2021 updated and recast a 2008 law requiring mercury thermostat manufacturers to establish and operate a collection and recycling program for out-of-service mercury-added thermostats by requiring manufacturers to contract with qualified third-party collectors to provide collection services throughout the State, fully fund the program’s regulatory and operational costs, and provide funding for a robust education and outreach

program. AB 732 deletes a requirement in AB 707 that the Department of Toxic Substances Control (DTSC) evaluate whether manufacturers have made a good faith effort to comply with the Act, requires manufacturers to automatically provide collection bins for out-of-service mercury-added thermostats to wholesalers (rather than only upon request), and makes other technical and nonsubstantive changes to the Act.

D. Assembly Bill (AB) 2481 – Household Hazardous Waste [Smith (R)]

AB 2481 makes a variety of changes to the laws related to the transportation of household hazardous waste (HHW) and operation of HHW collection facilities intended to clarify ambiguities and inconsistencies in current law, reduce the financial burden on local governments, and provide more flexibility to collection facilities and individuals to ensure that hazardous waste is disposed of properly. Specifically, AB 2481 (a) allows hazardous waste to be transported from one HHW facility to another with a shipping paper instead of a manifest; (b) allows HHW to be transported in a leased vehicle; (c) authorizes a person to transport HHW to a HHW collection facility on behalf of another individual who is disabled or otherwise unable to do so; (d) reduces restrictions on a HHW collection facility's acceptance of latex paint and other HHW from a very small quantity generator (VSQG); (e) imposes volume and weight limitations on the amount of hazardous waste a public agency or its contractor can transport to an HHW collection facility; (f) limits when individuals are permitted to exit their vehicles in the collection area of an HHW facility; and (g) makes other minor and technical updates to existing law.

IV. ORGANICS

A. Senate Bill (SB) 45 – SB 1383 Local Assistance [Portantino (D)]

SB 45 directs CalRecycle to provide assistance to local jurisdictions to comply with SB 1383 and CalRecycle's organic waste reduction regulations, but does not excuse local agency compliance with those regulations.

B. Assembly Bill (AB) 1985 – Recovered Organic Waste Product Procurement Targets [Rivas (D)]

CalRecycle's SB 1383 regulations require cities and counties to procure recovered organic waste products to meet an annual procurement target, which is based on population. A city or county can meet its procurement requirement in several ways, including, but not limited to, by (i) procuring and using or giving away compost; (ii) procurement of transportation fuel created through anaerobic digestion of organic waste for use in city/county vehicles or by the agency's waste hauler; (iii) the use of electricity generated from a biomass facility; and (iv) the use of renewable natural gas or electricity generated by a publicly owned treatment works (POTW) [such as sewer treatment plant] from organic waste originating from an eligible solid waste facility. Currently, the regulations only allow up to 25% of a city's or county's procurement target to be satisfied through the use of natural gas generated by a POTW.

This procurement requirement commenced January 1, 2022, and a jurisdiction that fails to meet its procurement target is subject to civil penalties of up to \$10,000 per day, in the discretion of CalRecycle. AB 1985 provides some relief to cities and counties by establishing a delayed and ramping timeline pursuant to which CalRecycle is permitted to impose civil penalties on a city or

county for failing to reach its organic waste procurement target. Pursuant to the legislation, to avoid penalties, a city or county only needs to reach 30% of its procurement target for 2023 and 65% of its procurement target for 2024. Beginning in 2025, jurisdictions will again have to meet 100% of their procurement targets, unless CalRecycle determines otherwise. Under the statute, CalRecycle is authorized to create a more lenient alternative procurement target schedule, in its discretion.

AB 1985 also expands the ability of cities and counties to meet their procurement targets through the use of renewable gas procured from POTWs. Per the bill, a jurisdiction will be allowed to meet up to 100% of its procurement target with renewable gas procured from a POTW until 2025, provided specified requirements are met.

C. Senate Bill (SB) 1187 – Fabric Recycling Pilot Program [Kamlager (D)]

SB 1187 Requires CalRecycle to establish a 3-year pilot project in Los Angeles and Ventura Counties in partnership with garment manufacturers to study the feasibility of recycling fabric. The goal of the pilot project is to create a circular economy for the highest and best use of waste textiles, including, but not limited to, creating cleaner and more uniform material streams, creating safe and living-wage jobs for local workers, educating the public, and reducing the disposal of textiles in California. Elements of the pilot project may include: (a) creating accessible textile collection sites; (b) developing a hub or consolidating pre-consumer textile scraps to facilitate the use of those materials by other businesses; (c) remanufacturing of fibers; (d) increasing capacity to sort textiles to create cleaner and more uniform material streams; and (e) community engagement and education on impacts of and alternatives to “fast fashion.”

V. OTHER BILLS RELATED TO SOLID WASTE

A. Assembly Bill (AB) 2048 –Franchise Agreement Database [Santiago (D)]

AB 2048 requires local agencies to post copies of current franchise agreements with contract waste and recycling haulers on their websites. Local agencies also must provide CalRecycle with a direct link to the posted franchise agreements, and CalRecycle must create and maintain a publicly accessible database that provides direct links to those posted franchise agreements. According to its author, the bill is intended to increase transparency and to make it easier for the public and interest groups to access solid waste franchise agreements.

B. Senate Bill (SB) 1111 – Trash Receptacles [Archuleta (D)]

SB 1111 requires dumpsters and other larger curbside trash receptacles and storage containers larger than 3’ x 4’ and designed to be placed on a roadway or curb to bear the owner’s name and current telephone number and to have reflective markings on both sides to make them more visible at night to drivers. This new law goes into effect on January 1, 2025; however, dumpster / trash receptacle owners have until January 1, 2026 to comply with the reflective markings requirement. Violations of this new law will be infractions punishable by escalating fines of up to \$1,000 per violation.

C. Assembly Bill (AB) 1817 – PFAS in Textiles [Ting (D)]

AB 1817 bans the manufacture, distribution, or sale in California of new textile articles that contain intentionally-added perfluoroalkyl and polyfluoroalkyl substances above specified thresholds (i.e., “regulated PFAS”), beginning January 1, 2025. PFAS substances are sometimes used in textiles to make them stain, oil, or water resistant. Various non-PFAS alternatives exist, but the bill requires manufacturers to use the least toxic alternative when removing and replacing regulated PFAS in textile articles to comply with the new law. Textile manufacturers also must certify to sellers that their textile articles do not contain any regulated PFAS.

AB 1817’s ban will apply to textile articles such as apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishing, upholstery, beddings, towels, napkins, and tablecloths. The ban will not apply to personal protective equipment; carpets and rugs; textiles used in vehicles, boats or airplanes; treatments containing PFAS for use on converted textiles or leathers; filtration media and filter products used in industrial applications; textiles used in laboratory applications; or textiles used in stadium shade structures. In addition, the bill exempts outdoor apparel for severe wet conditions from the ban until January 1, 2028.

D. Assembly Bill (AB) 649 – CalRecycle Environmental Justice and Tribal Relations Office [Bennett (D) and Ramos (D)]

AB 649 establishes the Office of Environmental Justice and Tribal Relations within CalRecycle, with the goal of ensuring that CalRecycle effectively addresses the needs of disadvantaged communities, low-income communities, California Native American tribes, and farmworkers.

E. Assembly Bill (AB) 2953 – Use of Recycled Materials in Street and Highway Construction [Salas (D)]

AB 2953 requires Caltrans, cities and counties, to the extent feasible and cost effective, to use advanced technologies and material recycling techniques that reduce the cost of maintaining and rehabilitating streets and highways and that exhibit reduced levels of greenhouse gas emissions through material choice and construction method. Beginning January 1, 2024, the bill also requires cities and counties, to the extent feasible and cost effective, to apply standard specifications that allow for the use of recycled materials in streets and highways at or above the level allowed in the current Caltrans standard specifications. Special districts, cities with a population of 25,000 or less, and counties with a population of 100,000 or less are exempt from the bill’s new requirements.

The Governor vetoed an almost identical bill (AB 1035) in 2021. To overcome the Governor’s objections, the exemption for small jurisdictions and special districts was added.

F. Assembly Bill (AB) 661 – State Agency Buy Recycled Campaign Changes [Bennett (D)]

AB 661 makes numerous changes to the State Agency Buy Recycled Campaign (SABRC). The SABRC is a joint effort between CalRecycle and DGS to implement state laws requiring state agencies and the Legislature to purchase recycled-content products and track those purchases. Under the SABRC, state agencies must ensure that specified percentages of their purchases from prescribed product categories are recycled products. In addition, if fitness and quality are equal, the SABRC

currently requires each state agency to purchase recycled products instead of nonrecycled products whenever recycled products are available at the same or lesser total cost than nonrecycled products.

AB 661 modifies the SABRC to create a new 10% bid preference for recycled products over non-recycled products. State agencies will now be required to purchase recycled products instead of nonrecycled products whenever recycled products are available at no more than 10% greater total cost than nonrecycled products, assuming fitness and quality are equal. AB 661 also substantially modifies the SABRC's product categories and requires CalRecycle to update the SABRC's list of recycled-content products and minimum recycled content percentages.

G. Assembly Bill (AB) 1857 – Transition Away from Transformation / Zero-Waste Equity Grants [Garcia, C. (D)]

AB 1857 repeals the provision of law that allows jurisdictions to receive diversion credit for waste sent to transformation (i.e., an incineration facility). California has two remaining transformation facilities, which are located in Stanislaus County and Long Beach.

AB 1857 also creates and requires CalRecycle to administer the Zero-Waste Equity Grant Program as a competitive grant program to support targeted strategies and investments in communities transitioning to a zero-waste circular economy. Highest grant priority would be given to communities most impacted by transformation or that contribute to significant amounts of transformation. The grant funding would be available to cities and counties, other local agencies, nonprofit organizations, and tribal entities and could be used to fund programs that result in the reuse, repair, and sharing of goods and materials, including, but not limited to, the following: (1) projects that promote the recovery and exchange of household goods, food, clothing, and building materials, such as resource recovery parks; (2) projects that repair and extend the life of products, such as electronics, textiles, and furniture; (3) projects that facilitate the use and sharing of infrequently used items, such as tools, equipment, books, and other household items; and (4) projects that promote reusable containers and package-free products and stores.

VI. LOCAL AGENCY GOVERNANCE

A. Senate Bill (SB) 1100 – Removal of Disruptive Meeting Attendees [Cortese (D), Low (D), and Aguiar-Curry (D)]

SB 1100 amends the Ralph M. Brown Act to expressly authorize the presiding member of a legislative body conducting a meeting, or their designee, to remove an individual for disrupting the meeting. Behavior is deemed “disruptive” if it actually disrupts, disturbs, impedes, or otherwise renders infeasible the orderly conduct of the meeting. Before a person can be removed, however, the presiding officer generally must warn the person that their behavior is disruptive and that continued disruption may result in the person's removal. However, no prior warning is required if the person is engaging in behavior that constitutes use of force or a true threat of force against someone. The new statute is intended to codify the authority and standards for governing public meetings in accordance with the Ninth Circuit's opinion in *Acosta v. City of Costa Mesa*, 718 F.3d 800, 811 (9th Cir. 2013), in which the court held that an ordinance governing the decorum of a city council meeting is not facially overbroad if it only permits a presiding officer to eject an attendee for actually disturbing or impeding a meeting.

B. Assembly Bill (AB) 2449 - Teleconferencing [Blanca Rubio (D)]

AB 2449 adds a new, third option for teleconferencing under the Ralph M. Brown Act AB 2449 allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing for “just cause” or in “emergency circumstances” without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public, under specified conditions. With the addition of AB 2449 there will be three different teleconferencing options for public meetings subject to the Brown Act as follows:

1. Traditional – This pre-pandemic method permits legislative body members to participate at various teleconference locations, provided that at least a quorum of the teleconference locations are within the agency’s jurisdiction, the address of each location is noticed on the agenda, all locations are open to the public to attend, and the locations meet ADA accessibility requirements.
2. State of Emergency (AB 361) – This option is only available during a declared state of emergency, and the legislative body must make specified findings every 30 days to continue teleconferencing using this option. All legislative body members can participate remotely from various teleconference locations, which do not have to be noticed on the agenda or made available to the public, but the public must be able to address the legislative body remotely either through a call-in or internet-based service option. These provisions sunset on January 1, 2024, or when the declaration of emergency no longer exists, whichever is sooner.
3. Justification Required (AB 2449) – A new teleconferencing method created by AB 2449 that allows legislative body members to teleconference for “just cause” or “emergency circumstances,” which are defined in the bill and further discussed below. These provisions sunset on January 1, 2026.

Under AB 2449, a legislative body member can teleconference into a meeting without noticing the location on the agenda or making the location available for public participation for either “just cause” or “emergency circumstances.” However, at least a quorum of the legislative body (50% + 1) must attend the meeting in person from a single location that is identified on the agenda and open to the public. A legislative body member can participate remotely under either of the following circumstances:

1. Just Cause – defined as a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely; a contagious illness that prevents a member from attending in person; a need related to a physical or mental disability defined in the Government Code that is not otherwise accommodated as a reasonable accommodation under the ADA; or travel while on official business of the legislative body or another state or local agency.
2. Emergency Circumstances – defined as a physical or family medical emergency that prevents a member from attending in person.

A legislative body member who elects to participate remotely for *just cause* may not do so no more than two times per calendar year. The official must notify the legislative body of the need to teleconference due to just cause at the earliest opportunity possible, including at the start of a regular meeting, and must include a general description of the circumstances relating to their need to appear remotely during the meeting. An official does *not* need the legislative body's approval to teleconference for just cause. However, if the meeting is not broadcast by way of two-way audio visual, the official could not attend for just cause.

If a legislative body member desires to participate remotely due to *emergency circumstances*, this request must be approved by the legislative body for the meeting at which the member desires to participate via teleconference. The legislative body must request a general description of the circumstances relating to the need to appear remotely, which generally does not need to exceed 20 words, but the member need not disclose any medical diagnosis, disability, or other personal medical information that is otherwise protected by law. The legislative body may take action on a member's request at the earliest opportunity, and if the request does not allow sufficient time to place the item on the posted agenda, then the legislative body may take action at the beginning of the meeting to consider the request. A legislative body member must make a separate request for each meeting he or she wishes to participate remotely.

If a legislative body member participates remotely for either just cause or emergency circumstances, a number of additional requirements apply, as follows:

- The in-person board meeting must provide at least one of the following as a means by which the public may remotely hear, visually observe the meeting, and remotely address the legislative body:
 - A two-way audiovisual platform – An online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function; or
 - A two-way telephonic service and a live webcasting of the meeting – A two-way telephone service means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate. Webcasting refers to a streaming video broadcast online or on television using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.
- The remote legislative body member must participate through both audio and visual technology.
- Before any action is taken, the remote legislative body member must disclose at the meeting whether any other adults are present in the room and the nature of the member's relationship with any such individuals.
- The meeting agenda must identify and provide the opportunity for persons to attend and address the legislative body directly.

- A legislative body cannot participate in meetings solely by teleconference either for just cause or emergency circumstances for more than three consecutive months or 20% of the regular meetings for the local agency within a calendar year or, if the legislative body meets fewer than 10 times per calendar year, then no more than two meetings per year.
- No action can be taken in the event of a disruption that prevents the agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, until public access is restored.

C. **Senate Bill (SB) 1439 – Campaign Contributions [Glazer (D), Gonzalez (D), Portantino (D), and Wilk (R)]**

SB 1439 amends the Levine Act (Government Code Section 84308), which places limits on board member acceptance of campaign contributions from persons and entities with permits, entitlements, or contracts pending before a local agency, and extends its provisions to agencies whose members are directly elected (such as cities and counties). As amended by SB 1439, beginning January 1, 2023, the Levine Act places the following campaign contribution limitations and prohibitions on all local agencies subject to the Political Reform Act (including cities, counties, and special districts with directly elected board members):

- While “a proceeding involving a license, permit or other entitlement for use” (including franchises and most contracts) is pending, and for 12 months following the date a final decision is rendered in the proceeding, an officer of an agency cannot accept, solicit or direct campaign contributions of more than \$250 in the aggregate from any party or participant to the proceeding (or their agents) if the officer knows or has reason to know the participant has a financial interest. A party to such a proceeding is also prohibited from making such campaign contributions. SB 1439 extended the existing campaign contribution prohibition period from 3 to 12 months after a final decision is rendered. SB 1439 also added a new provision, which allows an officer who unknowingly and unwillingly accepts, solicits, or directs a campaign contribution in violation of this 12-month prohibition period to cure the violation by returning the contribution (or the amount over \$250) within 14 days.
- Prior to any such decision being made, each officer of the agency who received a campaign contribution of more than \$250 from a party or participant to the proceeding within the previous 12 months must disclose this fact on the record of the proceeding and may not make, participate in making, or attempt to use the officer's official position to influence the decision. However, the officer may still participate in the decision if the officer returns the campaign contribution within 30 days from the time the officer knows, or should have known, about both the contribution and the proceeding.
- The Levine act also currently requires any party to a proceeding before a local agency to disclose on the record of the proceeding any contributions of more than \$250 made within the prior 12 months by the party or the party's agent. SB 1439 extends this disclosure requirement to proceedings before cities, counties, and special districts with directly elected officers.

- SB 1439 also added a new provision to the Levine Act, which clarifies that when the party to the proceeding is a closed corporation, the majority shareholder is subject to the Act's campaign contribution disclosure and prohibition requirements.

UNSUCCESSFUL MEASURES

A. Initiative 19-0028 – Single-Use Plastic Packaging and Foodware

This ballot initiative would have required CalRecycle to adopt regulations that reduce the use of single-use plastic packaging and food ware, including: (1) requiring producers to ensure that single-use plastic packaging and food ware is recyclable, reusable, refillable, or compostable by 2030; (2) requiring producers to reduce or eliminate single-use plastic packaging or food ware that CalRecycle determines is unnecessary for product or food item delivery; (3) requiring producers to reduce the amount of single-use plastic packaging and food ware sold in California by at least 25 percent by 2030; (4) requiring producers to use recycled content and renewable materials in the production of single-use plastic packaging and food ware; (5) establishing “mechanisms for convenient consumer access to recycling,” including take-back programs and deposits; (6) establishing and enforcing labeling standards to support the sorting of discarded single-use plastic packaging and food ware; and (7) prohibiting food vendors from distributing expanded polystyrene food service containers.

The ballot initiative would have also enacted a fee, called the California Plastic Pollution Reduction Fee, on single-use plastic packaging and foodware. CalRecycle would have determined the fee amount with a maximum amount of 1 cent per item of packaging or foodware. Beginning in 2030, the fee would be adjusted based on changes in the Consumer Price Index.

This initiative measure had originally qualified for the November 2022 ballot, but it was withdrawn by its sponsors after the Governor signed SB 54 on June 30, 2022. It will not appear on the November 2022 ballot.

B. Assembly Bill (AB) 2784 – Thermoform Plastic Containers [Ting (D), Irwin (D), and Skinner (D)]

AB 2784 would have required that the total thermoforms offered for sale, distributed, or imported into the state by a producer to, on average, contain specified percentages of post-consumer thermoform recycled plastic, ranging from 10% in 2025 to up to 30% in 2030, based on the recycling rate of the material.

AB 2784 was approved by the Legislature, but Governor Newsom vetoed the bill. According to Governor Newsom's veto message, he believes this bill imposes confusing requirements in conflict with some of SB 54's key provisions, which could unfairly result in duplicative fees and penalties for the same material.

C. Assembly Bill (AB) 2026 – Plastic Packaging [Friedman (D)]

SB 2026 would have required a large e-commerce shipper that ships purchased products in or into the state to reduce the total weight and number of units (source reduce) of single-use plastic shipping envelopes, cushioning, and void fill it uses to ship or transport products. The bill would have also prohibited expanded or extruded polystyrene from being used to package or transport products in or into the state.

SB 2026 did not make it out of Senate committee and was placed on the suspense file on August 2nd.

D. Senate Bill (SB) 1255 – Single Use Products [Portantino (D)]

SB 1255 would have provided grants to school districts and charter schools for the purchase and installation of commercial dishwashers at school sites in order to reduce the use of single-use food ware at schools.

SB 1255 was approved by the Legislature, but Governor Newsom vetoed the bill. According to Governor Newsom’s veto message, he believes that the Budget Bill provided sufficient funding to schools for equipment such as commercial dishwashers and was concerned about the cost of this bill.

E. Senate Bill (SB) 1256 – Disposable Propane Cylinders [Wieckowski (D)]

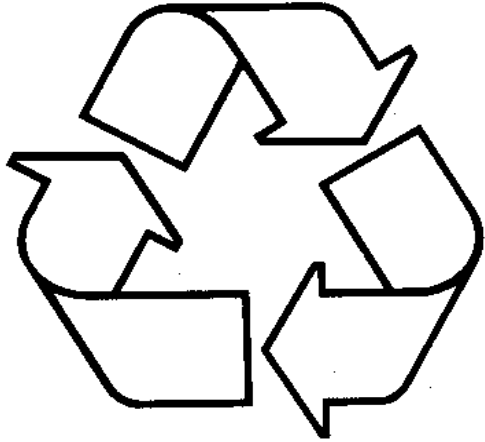
SB 1256 would have banned the sale of disposable propane cylinders on and after January 1, 2028, and would have established civil penalties for violations of the ban.

SB 1256 was approved by the Legislature, but Governor Newsom vetoed the bill. According to Governor Newsom’s veto message, he believes that an outright ban without a plan for collection and refill infrastructure could inhibit the success of building a circular system in California, and he encouraged the Legislature and stakeholders to instead pursue developing a market-based solution that accounts for manufacturer and retailer responsibility.

F. Assembly Bill (AB) 1 – Notice of Battery Fee [C. Garcia (D)]

AB 1 would have made a technical correction to the Lead-Acid Battery Recycling Act to update the required language of the notice sellers of lead-acid batteries must give to the public to reflect the new California battery fee rate of \$2 that went into effect on April 1, 2022.

AB 1 did not make it out of Senate Committee and was ordered to the inactive file on June 23, 2022.



**REGIONAL SOLID WASTE
ASSOCIATION**

Member Agencies: Cities of Del Mar,
Encinitas, Escondido, National City, Poway,
Solana Beach, and Vista

Adopted Legislation Related to Solid Waste

As Presented By: General Manager/General Counsel, James Eggart

October 6, 2022

Board Meeting

Senate Bill 54

Plastic Pollution Prevention and Packaging Producer Responsibility Act

Allen (D), Stern (D), Wiener (D), Hertzberg (D), Skinner (D), Rivas (D)

- ▶ Single-Use Packaging and Plastic Food Ware
- ▶ ERP Program funded by Producers
 - ▶ Producers must form Organization by 2024
- ▶ All must be recyclable or compostable by 2032
- ▶ 65% of plastic covered materials to be recycled or composted by 2032
- ▶ 25% source reduction (by weight and plastic component) of plastic covered materials by 2032
- ▶ 65% of EPS to be recycled by 2032
 - ▶ (Effective Ban?)
- ▶ All covered materials must be included in local collection and recycling programs
- ▶ Funded through \$500 Million annual surcharge paid by producers



Senate Bill 1046

Pre-Checkout Bags

Eggman (D)

- ▶ Bans non-compostable plastic “pre-checkout” bags
- ▶ Biodegradable not good enough
- ▶ Must be compostable or made from recycled paper
- ▶ Bans all *non-compostable* green, brown, or beige bags (both checkout and pre-checkout bags)
- ▶ Takes effect in 2025



Senate Bill 38

Bottle Bill Amendments

Wieckowski (D)

- ▶ Minor Bottle Bill Amendments
- ▶ Prohibits cash CRV payments
- ▶ Requires CalRecycle to study and develop a system to address glass contamination in glass food/beverage containers to improve quality of recycled glass



Senate Bill 895

Nonprofit Convenience Zone Recycler

Laird (D)

- ▶ Amends the Bottle Bill to reduce restrictions on nonprofit convenience zone recyclers.
 - ▶ 5 year location requirement
 - ▶ 2 mile proximity to grocery store requirement
- ▶ Intended to allow Grey Bears Thrift Store in Santa Cruz County to receive handling fees
- ▶ But could also apply to others



Assembly Bill 2440

Responsible Battery Recycling Act of 2022

Irwin (D)

- ▶ Establishes ERP for collection and recycling of loose batteries
- ▶ Funded by battery producers
- ▶ CalRecycle approved Stewardship Plan must be in place by 2027



Senate Bill 1215

Battery-Embedded Products

Newman (D)

- ▶ Expands existing E-Waste take-back program to cover *battery-embedded products*
 - ▶ cell phones, laptops, video games, cordless power tools, etc.
- ▶ Funded through a recycling fee paid by consumers



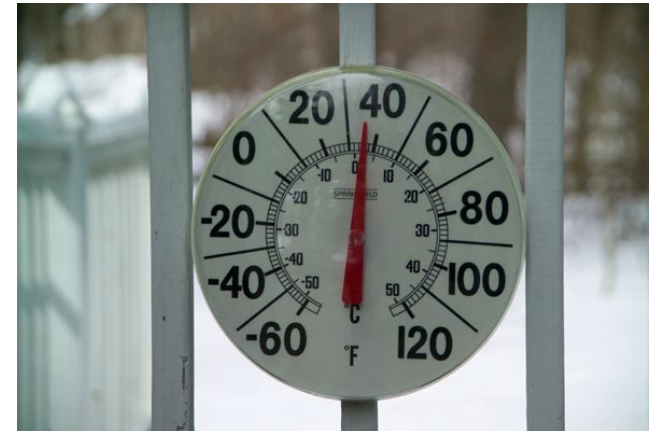
Assembly Bill 732

Mercury Thermostat Collection Act of 2021

Amendments

Quirk (D)

- ▶ Minor Technical Amendments to AB 707 (2021)
- ▶ 2021 Law: Updated EPR program for collection and recycling of mercury thermostats
- ▶ Manufactures now have to automatically provide collection bins to wholesalers (previously only upon request)



Assembly Bill 2481

Updates to HHW Requirements

Smith (R)

- ▶ Updates requirements for transportation of HHW and operation of HHW Collection Facilities
- ▶ Can transport HHW from one facility to another with shipping paper instead of manifest
- ▶ Paint doesn't count against weight and volume limits
- ▶ Updates to very small quantity generator (VSQG) rules
- ▶ Allows a person to transport another's HHW when they are disabled or otherwise cannot do so
- ▶ Limits exiting of vehicles in HHW facility collection area
- ▶ Limits amount of waste public agency can take to a HHW facility



Senate Bill 45

Organic Waste Reduction Assistance

Portantino (D)

- ▶ Requires CalRecycle to provide assistance to help local jurisdictions with SB 1383 compliance and CalRecycle's organic waste reduction regulations
- ▶ Does not excuse local agency compliance with the regulations



Assembly Bill 1985

Recovered Organic Waste Procurement Targets

Rivas (D)

- ▶ Relief from SB 1383 Recovered Organic Waste Procurement Targets
 - ▶ 2023: 30% of Target
 - ▶ 2024: 65% of Target
 - ▶ 2025: 100% of Target
- ▶ CalRecycle can allow a more lenient compliance schedule in its discretion
- ▶ Expands allowed use of renewable gas from POTW to meet procurement target



Senate Bill 1187

Fabric Recycling Pilot Project

Kamlager (D)

- ▶ Requires CalRecycle to establish a 3-year pilot project in Los Angeles and Ventura Counties in partnership with garment manufacturers to study feasibility of recycling fabric
- ▶ Elements of Pilot Program:
 - ▶ Textile Collection Sites
 - ▶ Hub for textile scraps for reuse
 - ▶ Remanufacturing of fibers
 - ▶ Increase capacity to sort textiles
 - ▶ Education and outreach



Assembly Bill 2048

Franchise Agreement Database

Santiago (D)

- ▶ Requires local agencies to post copies of their solid waste franchise agreements on their websites
- ▶ CalRecycle will create and maintain a publicly accessible database of links to local franchise agreements

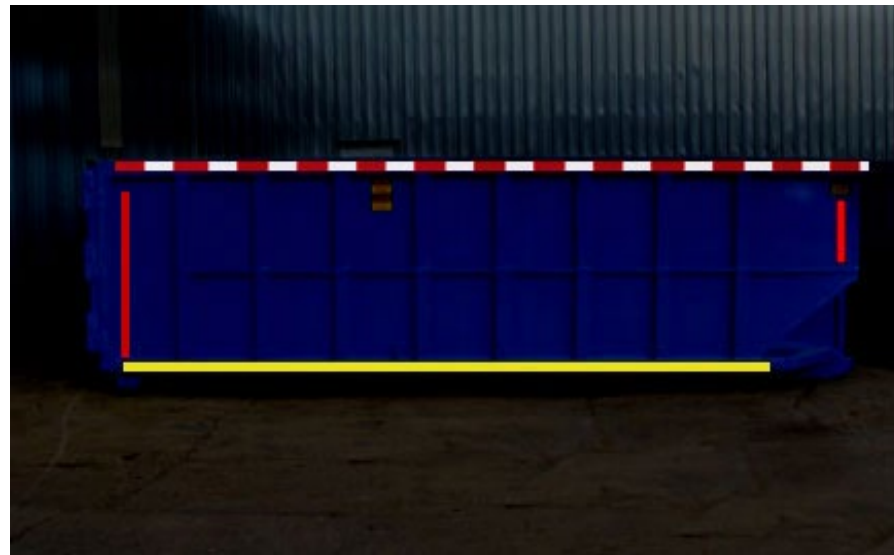


Senate Bill 1111

Reflective Markings and Owner Contact Information Required on Curbside Dumpsters

Santiago (D)

- ▶ Requires curbside dumpsters and roll-off bins to have reflective markings and owner contact information
- ▶ Takes effect in 2025
- ▶ Owners have until 2026 to add reflective markings

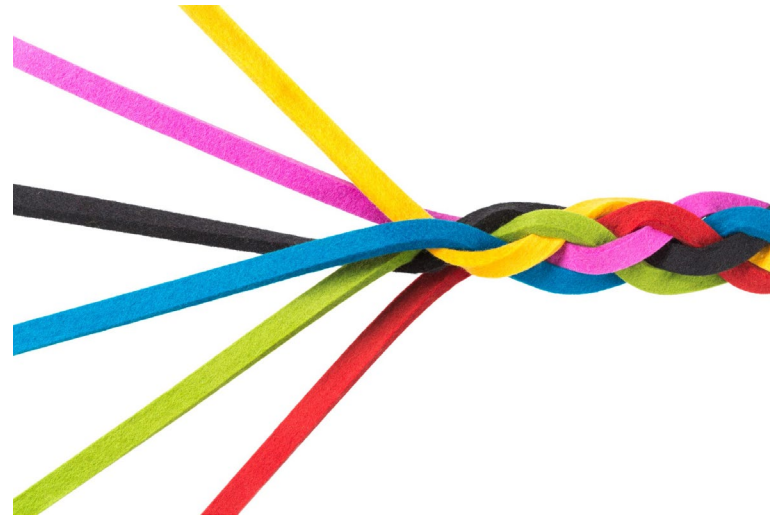


Assembly Bill 1817

Bans Textiles Containing Added PFAS

Ting (D)

- ▶ Bans manufacture and sale of textiles containing intentionally-added PFAS beginning January 1, 2025
- ▶ Exceptions for PPE, carpet, and certain other regulated products
- ▶ Manufacturers must use the least toxic alternative when replacing regulated PFAS in textile articles
- ▶ Manufacturers must provide certificate of compliance to distributors



Assembly Bill 649

CalRecycle Office of Environmental Justice and Tribal Relations

Bennett (D), Ramos (D)

- ▶ Establishes the Office of Environmental Justice and Tribal Relations within CalRecycle.
- ▶ Seeks to ensure that CalRecycle effectively addresses the needs of disadvantaged communities, low-income communities, California Native American tribes, and farmworkers.



Assembly Bill 2953

Use of Recycled Materials in Streets and Highways

Salas (D)

- ▶ “Requires” the use of advanced technologies and material recycling techniques for street/highway construction and maintenance
- ▶ “Require” cities/counties to apply standard specifications that allow for the use of recycled materials in streets in levels at or above those in current Caltrans standard specs
- ▶ Only “required” if feasible and cost effective
- ▶ Small cities/counties and special districts exempt



Assembly Bill 661

State Agency Buy Recycled Campaign Changes

Bennett (D)

- ▶ Creates 10% state agency bid preference for recycled products over nonrecycled products
- ▶ Revises product categories
- ▶ Updates by CalRecycle to list of recycled products and recycled content percentage requirements



Assembly Bill 1857

Transformation / Zero-Waste Equity Grants

C. Garcia (D)

- ▶ Repeals law that allows diversion credit for waste sent to a “transformation” (i.e., incineration) facility
 - ▶ 2 transformation facilities in the State (Long Beach & Stanislaus County)
- ▶ Creates Zero-Waste Equity Grant Program to support targeted strategies and investments in communities transitioning to a zero-waste circular economy
 - ▶ Funding for programs that result in reuse, repair, and sharing of goods and materials
 - ▶ But subject to funding appropriation by Legislature (none in 2023)



Senate Bill 1100

Removal of Disruptive Meeting Attendees

Low (D), Aguiar-Curry (D)

- ▶ Expressly authorizes presiding officer at a public meeting to order “disruptive” individuals removed
- ▶ Must warn the individual first
- ▶ No warning required if true threat of force against someone
- ▶ Codifies existing Ninth Circuit precedent (*Acosta v. City of Costa Mesa*)



Assembly Bill 2449

New Brown Act Teleconferencing Option

Blanca Rubio (D)

- ▶ Adds 3rd option for legislative body members to participate in meetings via teleconference
- ▶ Only for “just cause” or in “emergency circumstances”
- ▶ Must be an in-person quorum
- ▶ Limited number of times allowed
- ▶ Must use 2-way audiovisual platform or telephone + webcasting for meeting
- ▶ Sunsets January 1, 2026



Senate Bill 1439

Levine Act Expansion

Glazer (D), Gonzalez (D), Portantino (D), Wilk (R)

- ▶ Expands “Levine Act” to apply to cities and counties
- ▶ Limits board/city council member acceptance of campaign contributions > \$250 from persons with contracts, permits, etc. before agency
 - ▶ While pending
 - ▶ During 12 months after
- ▶ Disqualified from participating if received campaign contribution >\$250 w/in prior 12 months

