

November 23, 2015

Hon. Kamala D. Harris  
Attorney General  
1300 I Street, 17th Floor  
Sacramento, CA 95814

Attention: Ms. Ashley Johansson  
Initiative Coordinator  
Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative related to paper and reusable carryout bags (A.G. File No. 15-0074).

## Background

***Many Local Governments Restrict Single-Use Carryout Bags.*** Stores frequently provide shoppers with single-use paper and plastic carryout bags for free. Concerns about the environmental impacts of single-use carryout bags—such as plastic bags ending up in waterways—have led to many cities and counties in California to adopt ordinances restricting or banning single-use carryout bags. As of November 2015, there were 115 adopted ordinances—covering roughly a third of California’s population. Most of these ordinances ban single-use plastic bags at grocery stores, convenience stores, pharmacies, and liquor stores. They also usually require the retailer to charge at least 10 cents for the sale of paper or reusable plastic bags. Generally, the retailer keeps the revenue from such a charge.

***State Ban on Single-Use Plastic Bags.*** In 2014, the Legislature passed and the Governor signed a statewide single-use carryout bag law, Chapter 850, of 2014 (SB 270, Padilla). Similar to many of the local ordinances, SB 270 prohibits most grocery, convenience, and liquor stores from providing single-use plastic bags. It also generally requires retailers to charge at least 10 cents for any paper or reusable bag that it provides to consumers at checkout and creates standards for reusable bags (such as size and durability requirements). The law allows the retailers to retain the revenue from the sale of these bags. This law does not replace existing local ordinances, and, therefore, only applies to cities and counties that do not already have their own single-use carryout bag ordinances.

***Referendum on State Ban.*** A referendum regarding SB 270 qualified for the November 2016 ballot, which means that the law will be voted on for approval or rejection by the voters. If the

referendum passes, the law will be upheld. If it does not pass, the law will be rejected. Until the outcome of the election, the state cannot implement SB 270.

## **Proposal**

This measure changes where the revenue from the sale of carryout bags, when required by a state law that also bans free distribution of other bags, would be deposited. Under this measure, such revenue would be deposited into a new state fund to be administered by the state Wildlife Conservation Board (rather than be retained by retailers). The measure specifies that monies in the fund must be used by the board to support (1) grants for programs and projects related to drought mitigation; (2) recycling; (3) clean drinking water supplies; (4) state, regional, and local parks; (5) beach cleanup; (6) litter removal; and (7) wildlife habitat restoration. The measure also allows a small portion of these funds to be used for grant administration and biennial audits of the programs receiving funds.

The measure also provides local governments with the option to require that money collected pursuant to local carryout bag ordinances be deposited in the new state fund. To be eligible, the ordinance must prohibit the free distribution of at least one type of carryout bag and require a charge for the use of any other type of carryout bag.

## **Fiscal Effects**

Whether this measure has any significant fiscal effects on state and local governments in the near term depends on whether voters choose to uphold or reject SB 270 in the November 2016 election.

***Effects if SB 270 Is Upheld.*** If voters choose to uphold SB 270, state revenue from the sale of carryout bags could be in the several tens of millions of dollars annually. The actual amount of revenue could be higher or lower based on several factors, particularly future sales and prices of paper and reusable bags. Under this initiative, these revenues would support various environmental and natural resources purposes specified in the measure.

***Effects if SB 270 Is Rejected.*** If voters reject SB 270, the provisions of this measure would currently only affect those local governments that choose to redirect carryout bag deposits to the state. We estimate that these revenues would probably be minor, at least in the short term. However, the provisions of this measure would remain in statute and would apply to any future state carryout bag law that meets this measure's requirements.

***Summary of Fiscal Effects.*** We estimate that this measure would have one of the following major fiscal effects, depending on whether voters uphold or reject the state's pending carryout bag law in the November 2016 election:

- If voters uphold the state's current carryout bag law, redirected revenues from retailers to the state, potentially in the several tens of millions of dollars annually. Revenues would be used for grants for certain environmental and natural resources purposes.
- If voters reject the state's current carryout bag law, likely minor fiscal effects.

Sincerely,

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Mac Taylor  
Legislative Analyst

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Michael Cohen  
Director of Finance