

**CALIFORNIA COASTAL COMMISSION**

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**RECORD PACKET COPY****W-9b**

September 12, 2001

**TO:** Coastal Commissioners and Interested Public

**FROM:** Peter M. Douglas, Executive Director  
Sarah Christie, Legislative Coordinator

**SUBJECT:** LEGISLATIVE REPORT FOR SEPTEMBER 2001

**CONTENTS:**

This report provides summaries and status of bills that affect the Coastal Commission and California's Coastal Program as well as bills that staff has identified as coastal related legislation.

Note: This information can be accessed through the Commission's World Wide Web Homepage at  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**IMPORTANT LEGISLATIVE DATES**

The California State Legislature re-convened on January 3, 2001. The California Coastal Commission is not sponsoring any bills this session.

Aug. 20	Legislature Reconvenes
Aug. 31	Last day for fiscal committees to meet and report bills to Floor
Sept. 7	Last day to amend bills on the Floor
Sept 14	Last day for each house to pass bills, Interim Recess begins
Oct. 14	Last day for Governor to sign or veto bills

Please contact Sarah Christie, Legislative Coordinator, at (916) 445-6067 with any questions on the material contained in this report.

### **PRIORITY LEGISLATION**

#### **ACR 20 (Pavley) California Coastal Trail**

This resolution recognizes the California Coastal Trail as a trail of statewide significance, and reaffirms the Legislature's support for the timely planning, siting and construction of the trail.

Introduced 2/14/01  
Status Passed Assm. Passed Senate Natural Resources, Passed Senate Appropriations; On Assm. Floor; Passed Assm. Floor

#### **Commission Position Support**

#### **AB 62 (Migden) Sudden Oak Death Syndrome**

This bill would appropriate \$4.6 million to the Department of Forestry and Fire Protection for the purpose of developing and implementing procedures for the control and management of Sudden Oak Death Syndrome (Phytopthera fungus) subject to budget approval. The Department would be required to assist local governments and property owners in identifying, removal and disposal of trees dying as a result of SODS.

Introduced 12/04/00  
Last Amended 5/31/01  
Status Passed Assm. Natural Resources Com; Passed Assm. Appropriations; Passed Assm. Floor; Passed Senate NR&W; Referred to Sen. Appropriations; Suspense File

#### **Commission Position Support**

#### **AB 104 (Nation) Coastal Conservancy, Motor Vehicle Mitigation Fund**

This bill would authorize the Coastal Conservancy This bill would authorize the conservancy to establish the Motor Vehicle Mitigation Subaccount, for the acquisition of open space, and the protection, restoration, and enhancement of streams, creeks, wetlands and watersheds. The bill would impose a fee of up to \$4, to be collected by the Department of Motor Vehicles, upon the registration or renewal of registration of every motor vehicle registered in the county of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, or Sonoma for purposes of funding the account, should at least three of those counties choose to participate in the program. Ten percent of the funds collected would go to the Regional Water Quality Control Board to fund transportation-related water quality projects.

Introduced 01/12/01  
Last Amended 08/22/01  
Status Passed Assm. Natural Resources, Passed Assm. Transportation; Passed Assm Appropriations, Passed Assembly Floor, Passed Sen. NR&W, Passed Sen. Trans; Passed Sen. Appropriations

#### **AB 107 (Nation) Wrecks and Wrecked Property**

This bill would amend the Harbors and Navigations Code to reduce by half the amount of time required to elapse before an abandoned or derelict vessel on public lands or tidelands within municipal or corporate jurisdiction may be sold. This bill would also triple the allowable amount of fee that can be against owners of derelict or abandoned vessels by a municipality or corporation. This bill would authorize removal of any vessel illegally moored for more than 72 hours when the vessel is docked without valid registration and deemed to be in an unseaworthy condition.

Introduced 01/16/01  
Last Amended 06/04/01  
Status Passed Assm. Transportation; Assm. Appropriations, Assm. Floor. Referred to Senate Judiciary Committee

**AB 388 (Strom-Martin) Oil Spill Prevention and Response: Marine Mammals**

This bill previously appropriated \$125,000 per year for the purpose of training OSPR personnel and staff to respond to oil spills requiring the rescue of wildlife, and an additional \$135,000 for grants to the Marine Mammal Center for research into the effects of toxic materials on marine mammals. The bill has been amended to authorize pilot projects for the purpose of growing industrial hemp.

Introduced 02/20/01  
Last Amended 08/27/01  
Status Passed Assm. Natural Resources, Passed Assm. Appropriations; Passed Assm. Floor;  
Referred to Senate Ag & Water Resources

**AB 556 (Jackson) Oil and Gas Development: Pipelines**

AB 556 would amend Section 30262 of the Coastal Act to require that any new or expanded oil production extracted off the coast of California be transported by pipeline, rather than tanker or barge, to onshore processing and refining facilities, and that all pipelines used to transport this oil utilize the best achievable technology to ensure maximum protection of public health and safety and productivity of terrestrial and marine ecosystems. In cases where overland transport by pipeline is infeasible, shipment of crude oil may be permitted by other modes of environmentally sound onshore transportation such as trains and trucks, which meet all applicable rules and regulations, excluding any waterborne mode of transport.

Introduced 02/21/01  
Last Amended 04/30/01  
Status Passed Assm. Natural Resources; Passed Assm. Appropriations, Inactive File Assm.  
Floor

**Commission Position Support**

**AB 560 (Jackson) Storm Water**

This bill would amend the state Water Code, to allow grant funds to local public agencies for the purpose of acquiring, installing and maintaining devices for the removal of debris and pollutants from storm water drains, and direct the California Conservation Corps to assist with installation, where feasible.

Introduced 02/21/01  
Last Amended 07/18/01  
Status Passed Assm. ES&TM Committee, Passed Assm. Appropriations, Passed Assm.,  
Passed Sen. Ag & Water Committee; Passed Sen. Appropriations; on Senate Floor

**AB 639 (Nakano) Coastal Waters: Contamination**

AB 639 would direct the State Water Board to conduct pilot programs at three public beaches with high closure rates for the purpose of identifying best management practices for the control and management of polluted runoff.

Introduced 02/22/01  
Last Amended 08/22/01  
Status Passed Assm. ES & TM Committee, Passed Assm. Appropriations; Passed Assm.  
Floor, Passed Sen. E.Q; Referred to Sen. Appropriations

**AB 640 (Jackson) Coastal Resources: Certified Local Programs**

This bill would amend Section 30519.5 of the Coastal Act, relating to Periodic Reviews of Local Coastal Programs. The legislative findings related to changed circumstances and out-dated LCPs direct the Commission and local governments to undertake, as expeditiously as possible, the review of previously certified LCPs and take corrective measures as necessary to ensure that implementation meets the goals and policies of the Coastal

Act. The bill provides that if, after public hearings and notifications as prescribed in the bill, a local government elects not to amend its LCP as recommended by the Commission, the Commission may vote to:

- a) Not process any further amendments to the affected local coastal program until the local government takes the actions recommended by the Commission;
- b) Review on appeal any permits issued by the local Government;
- c) Review all appeals using the Chapter 3 policies of the Coastal Act, not the LCP as the standard of review.

Introduced 02/22/01

Last Amended 05/01/01

Status Passed Assm. Natural Resources, Passed Assm. Appropriations; Assm. Inactive File

**Commission Position Support**

AB 759 (Shelley) Personal Watercraft: bans

This bill would allow any city or county to adopt an ordinance banning the use of personal watercrafts (jetskis) in any navigable waterway within the jurisdiction of the city or county. The bill would authorize fines of up to \$200 for violation of the ordinance.

Introduced 02/22/01  
Last Amended 05/14/01  
Status Passed Assm. Transportation, Assembly Inactive File

AB 949 (Kehoe) Natural Community Conservation Plans

This bill would allow Natural Community Conservation Plans to provide for the conservation of wetlands and wetland-dependent species that are not subject to federal jurisdiction. With respect to coastal wetlands, as defined in Section 30121 of the Public Resources Code, this bill requires NCCPs to meet the requirements of the California Coastal Act.

Introduced 02/23/01  
Last Amended 05/01/01  
Status Passed Assm. Water Parks & Wildlife, Assm. Appropriations Suspense File

AB 960 (Keely) Crime Prevention

This bill would appropriate \$300,000 from the General Fund to continue funding the California District Attorneys Association's Environmental Circuit Prosecution Project, and to perform an evaluation of the project. The project has convened two multi-agency enforcement task forces on the North Coast, in which Coastal Commission participates.

Introduced 02/23/01  
Last Amended 08/20/01  
Status Passed Assm. Public Safety Committee; Passed Assm. Appropriations; Passed Assembly Floor; Passed Senate Public Safety; Referred to Sen. Appropriations; Suspense File

**Commission Position Support**

AB 985 (Florez) Fully Protected Species

This is a spot bill relating to the Fully Protected Species Act. The author intends to hold public hearings and workshops this summer before submitting final language.

Introduced 02/23/01  
Last Amended 08/29/01  
Status Passed Assm. WP&W Committee, Passed Assm. Appropriations Committee, Passed Assembly Floor, Referred to Sen. NR&W, Rule Waiver Denied

AB 1011 (Pavley) County Records

This bill would require the county recorders to maintain a comprehensive index of conservation easements recorded within the county, and to transmit a copy of any conservation easement to the county assessor, once the easement has been recorded, after January 1, 2002. Conservation easements are defined in the bill as including any easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to that easement and is binding upon successive owners of the land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition. (Analysis attached.)

Introduced 02/23/01  
Last Amended 08/21/01  
Status Passed Assm. Local Government Committee; Passed Assm. Appropriations; Passed Assembly Floor; Passed Sen. Local Government; Passed Sen. Judiciary Committee; Passed Sen. Appropriations; on Senate Floor

**Commission Position: Recommend Support**

AB 1108 (Pavley) Santa Monica Mountains: transfer of land

This bill would allow the Resources Secretary to directly acquire lands held by the State Controller, that have been identified by the Secretary as having significant statewide resource value, without an appropriation of state funds. The bill is limited to lands within the Santa Monica Mountains zone.

Introduced 02/23/01  
Status Passed Assm. Natural Resources Committee, Referred to Assm. Appropriations  
Suspense File

AB 1145 (Jackson) Regional Open Space District: County of Ventura

This bill would allow the Ventura County Board of Supervisors to form a regional open space district by way of resolution, and to place the formation of the district on a ballot within the county of Ventura.

Introduced 02/23/01  
Status Passed Assm. Local Government Committee, Assembly Floor Inactive File

AB 1172 (Keeley) Natural Community Conservation Planning

This bill would require the Department of Fish and Game, in three year intervals, to prepare and submit to the Legislature a report on the functioning and effectiveness of the NCCP Act. The report would include an evaluation of the functioning and effectiveness of the program, an inventory of NCCP plans underway or in the process of review, and the science being utilized in the preparation of those plans.

Introduced 02/23/01  
Status Passed Water Parks and Wildlife Committee, Passed Assm. Appropriations, Passed Assembly, Referred to Sen. NR&W Committee

AB 1192 (Pavley) Water Quality and Watershed Protection Act of 2002

This bill would enact the Water Quality and Watershed Protection Act, authorizing the financing of the program through the sale of general issue bonds of an unspecified amount. The money would be used for grants and loans to local agencies to implement pilot projects for storm water quality improvement, water conservation and recycling, watershed restoration, nonpoint source pollution control and other specified water quality projects.

Introduced 02/23/01  
Last Amended 05/01/01  
Status Passed Environmental Safety and Toxic Materials Committee, Referred to Assm. Appropriations Committee

AB 1256 (Harman) Bolsa Chica

This bill would require the Department of Parks and Recreation, in consultation with Department of Fish and Game and the State Department of Education, to study options for the future purchase of the Bolsa Chica Mesa, including a consideration of its public recreational uses, and report back to the Legislature by January 1, 2002.

Introduced 02/23/01  
Last Amended 05/25/01  
Status Passed Assm. Water Parks and Wildlife Committee, Passed Assm. Appropriations Committee, Passed Assembly Floor, Passed Senate NR&W, Referred to Sen. Appropriations; Enrolled to Governor; Vetoed by Governor

AB 1414 (Dickerson) Public Lands

This bill would require any state agency that holds public lands to prepare a management plan for any properties acquired after January 1, 2001, and designates the Office of Planning and Research as the agency charged with coordinating all state agencies that fund, acquire or manage lands for conservation or wildlife purposes. The management plans would be available for public review within 12 months from recordation of the property, and departments would be required to submit annual reports on the status of said lands to the appropriate legislative budget committees.

Introduced 02/23/01  
Last Amended 08/22/01  
Status Passed Assm. Natural Resources, Passed Assm. Appropriations, Passed Assembly Floor; Passed Sen. NR&W; Referred to Sen. Appropriations; Suspense File

**Commission Position Oppose**

AB 1561 (Kelley) An Act Relating to Water

This bill requires the Secretary for Resources to issue a report to the Legislature by April 1, 2002, on the progress of the Lower Colorado River Multi-Species Conservation Program established by the States of California, Arizona, and Nevada and approved by the Department of Fish and Game.

Introduced 02/23/01  
Last Amended 06/26/01  
Status Passed Assm. WP&W Committee, Passed Assm Appropriations, Passed Assm. Floor, Referred to Sen. NR&W, Rule Waiver Denied

AB 1598 (Hollingsworth) Fully Protected Species

This is a spot bill relating to the take of fully protected species.

Introduced 02/23/01  
Last Amended 05/01/01  
Status Passed Assm WP&W Committee, Referred to Assm. Appropriations, Held in Committee

AB 1602 (Keeley) Oak Woodlands

This bill would enact the Oak Conservation Act of 2001, administered by the Department of Forestry and Fire Protection. The Act would require the Department to do a status report on the health of California's oak woodlands, and to establish the Oak Conservation Advisory Committee. The Committee would make policy recommendations for the conservation of oak woodlands, and submit its recommendations to the director by January 1, 2003.

Introduced 02/23/01  
Last Amended 07/20/01  
Status Passed Assm. Natural Resources; Passed Assm. Appropriations, Passed Assembly, Passed Senate Natural Resources Committee; Passed Sen. Appropriations; On Senate Floor

SB 1 (Alpert) California Endowment for Marine Preservation

This bill would create the California Endowment for Marine Preservation, and the California Marine Resources Trust Fund, to be administered as proscribed by the bill. Both funds would receive a portion of the savings afforded to owner/operators of offshore oil and gas platforms, in the event they choose to participate in a "Rigs to Reefs" program, to be administered by the Department of Fish and Game, in consultation with the Commission, State Lands Commission, BCDC and Minerals Management Service.

Introduced 12/04/00  
Last Amended 08/20/01  
Status Passed N.R.&W. Committee, Passed Sen. Appropriations, Passed Senate Floor; Passed W.P.&W Committee; Assm. Appropriations Suspense File

SB 31 (Chesbro) Sudden Oak Death Syndrome: Funding

This bill would appropriate \$10.265 million to the Department of Forestry and Fire Protection for the purpose of developing and implementing procedures for the control and management of Sudden Oak Death Syndrome (Phytophthora fungus). The Department would be required to assist local governments and property owners in identifying, remove and dispose of trees ding as a result of SODS. The bill would take effect immediately as an Urgency statute. This bill makes the same appropriation as AB 64.

Introduced 12/04/00  
Last Amended 02/22/01  
Status Passed N.R.&W. Com; Referred to Senate Appropriations  
**Commission Position Support**



SB 107 (Sher) Natural Community Conservation Planning

This bill would repeal the Natural Community Conservation Planning Act of 1982, and replace it with the new Act. This bill would authorize the Department of Fish and Game to enter into agreements with local governments and private property owners for the purpose of allowing 'take' of species covered by the plan, subject to certain standards relating to collection of data, application of scientifically sound principles, and a process for public participation.

Introduced 01/22/01  
Last Amended 05/02/01  
Status Passed N.R.&W. Committee, Passed Senate Appropriations, Passed Senate Floor,  
Referred to Assm. W.P.&W. Committee

SB 116 (Kuehl) State Parks: roads, construction and improvement

This bill would prohibit the construction of roads by any state or local agency

Introduced 01/24/01  
Last Amended 03/20/01  
Status Passed N.R. & W. Committee, Passed Senate Appropriations, Passed Senate Floor,  
Failed Passage in Assm. WP&W Committee, Reconsideration granted

SB 124 (Johnson) Property Transfer

This bill would require the Department of Transportation to transfer a 15-acre parcel of open space from the Department of Transportation to the Department of Parks and Recreation, for a sum of \$1,356,485, contingent upon the city's agreement to manage and improve the parcel as a public park. The parcel is located in the coastal zone adjacent to Pacific Coast Highway in the City of Newport Beach.

Introduced 01/25/01  
Last Amended 06/04/01  
Status Passed Governmental Organization Comm., Passed Senate Appropriations, Passed  
Senate Floor, Passed Assm. B.&P. Committee; Assm. Appropriations Suspense File

SB 142 (Haynes) Religious Practices

This bill would prohibit any city or county from enacting regulations in residential land use categories which would impose a burden on religious practices, including but not limited to Bible studies and prayer meetings in private residences.

Introduced 01/29/01  
Last Amended 05/08/01  
Status Passed Senate Local Government Committee, Failed Senate Judiciary Committee.  
Reconsideration Granted

SB 196 (Chesbro) Coastal and Historic Bond Act

This bill authorize the legislature to spend bond funds for financing the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, coastal, and historical resources, as specified.

Introduced 02/08/01  
Last Amended 08/21/01  
Status Passed Senate NR&W Committee, Passed Senate Appropriations Committee, Passed  
Senate Floor, Held at Assm. desk, Referred to Assm. WP&W Committee

**SB 516 (Johnson) Local Coastal Programs**

This bill would allow the County of Orange to continue to implement the Irvine Coast LCP for that portion of the Irvine Coast which will be annexed by the City of Newport Beach. This bill creates the Newport Beach LCP Forfeiture Account for the deposit of fines accrued as specified in the bill. Urgency clause adopted.

Introduced 02/22/01  
Last Amended 06/25/01  
Status Passed Senate Local Government Committee, Passed Senate Appropriations Committee, Passed Senate Floor, Passed Assm. Natural Resources Committee; Passed Assm. Local Gov. Committee; Passed Assm. Appropriations, On Assm. Floor Consent Calendar

**Commission Position Neutral**

**SB 908 (Chesbro) California Coastal Trail**

This bill would require the Coastal Conservancy, in consultation with the Coastal Commission and the Department of Parks and Recreation, to develop a plan designating the primary hiking route and alternate routes for the California Coastal Trail, to estimate of costs of acquiring and developing the trail, and a description of where the trail might connect with existing, inland trail routes. The Commission's current position is Support if Amended. The bill has been amended to reflect the Commission's concerns.

Introduced 02/23/01  
Last Amended 07/10/01  
Status Passed N.R.&W. Committee, Passed Senate Appropriations, Passed Senate Floor, Passed Assm. Natural Resources Committee; Assm. Appropriations Suspense File

**Commission Position Support**

**SB 1069 (Chesbro) Plastic Pollution Prevention Fee**

This bill would amend the California Integrated Waste Management Act to require manufacturers of plastic containers to increase plastic recycling rates to at least 50%. This bill would authorize the California Integrated Waste Management Board to adopt regulations to implement the bill. (Analysis attached).

Introduced 02/23/01  
Last Amended 04/30/01  
Status Passed Senate Env. Quality Committee, Senate Appropriations Suspense File

**Commission Position Recommend Support**

**SB 1164 (Sher) Local Coastal Programs: Costs**

This bill would amend Section 30353 of the Public Resources Code to allow local governments to recover from the state costs incurred as a result of defending local actions pursuant to local coastal programs prior to the rendering of judgement if the Attorney General has intervened in support of the local government's position and the amount paid does not exceed \$500,000. Local governments would repay the state from any costs recovered as a result of final judgement. The bill would require the Director of the Commission, in consultation with the Attorney General, to establish procedures for the payment of litigation costs.

Introduced 02/23/01  
Status Passed N.R.&W. Committee, Passed Senate Floor, Passed Assm. Natural Resources Committee; On Assembly Floor

## **BILL ANALYSIS; AB 1011 (Pavley)**

### **SUMMARY**

This bill would require all county recorders to develop and maintain a comprehensive index of conservation easements, offers to dedicate public access, permit conditions and restrictive covenants on land within their counties, and to include in that index all conservation easements recorded after January 1, 2002. For easements recorded prior to January 1, 2002, specified parties, including the Coastal Commission, may provide information on easements and OTDs to the county recorders for inclusion in the index.

### **PURPOSE OF THE BILL**

The intent of this bill is to create standardized recording practices, and provide for better enforcement of restrictions on encumbered lands by creating a centralized indexing system within each county.

### **EXISTING LAW**

Existing law requires county recorders to record any instrument, paper, or notice that is authorized or required by statute or court order to be recorded. The law does not require county recorders to index conservation easements.

### **PROGRAM BACKGROUND**

The Coastal Commission has required Offers to Dedicate, permit conditions, and scenic, agricultural and conservation easements for a variety of projects since its inception. Offers to Dedicate must be accepted by a local government or non-profit organization before they expire, a process which can take as much as 20 years. Local jurisdictions with certified LCPs assume primary enforcement responsibility for conditions and easements, and the Commission retains primary enforcement authority for uncertified jurisdictions. Each local government has different procedures for recording OTDs and easements. The result is that some jurisdictions lose track of property restrictions.

### **ANALYSIS**

This bill would require all county recorders to develop and maintain a comprehensive index of conservation easements on land within their counties and to include in that database all conservation easements recorded after January 1, 2002. The lack of consistent recordation practices of easements and OTDs throughout the state has made it difficult for the public and staff planners to access information about the location and conditions of these types of encumbrances. The Commission has seen examples of new development sited over outstanding OTDs gaining approval at the local level. Likewise, permit conditions can get overlooked as institutional memory fades over time. While permit conditions are on file at local government planning departments, most title companies and potential purchasers rely on information supplied by the County Clerk-recorder when researching the status of property. Thus, new purchasers may be unaware of conditions, easements or OTDs recorded against a parcel.

This bill provides a standardized form for the recording of specified instruments.

This measure does not appropriate funds to counties to cover the additional cost of indexing conservation easements.

## LEGISLATIVE HISTORY

None.

## SUPPORT/OPPOSITION

### Support:

Mountains Restoration Trust [SPONSOR]  
Planning and Conservation League  
City of Calabasas

### Opposition:

None on file

## RECOMMENDED POSITION

Staff recommends the Commission **Support** AB 1011.

## LEGISLATIVE STAFF CONTACT

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(916) 445-6067  
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AMENDED IN SENATE AUGUST 21, 2001

AMENDED IN SENATE JULY 9, 2001

AMENDED IN SENATE JUNE 28, 2001

AMENDED IN ASSEMBLY MAY 9, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY APRIL 5, 2001

CALIFORNIA LEGISLATURE—2001-02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1011**

**Introduced by Assembly Member Pavley**  
(Coauthor: Senator Kuehl)

February 23, 2001

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An act to add Section ~~27424~~ 27255 to the Government Code, relating to county records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1011, as amended, Pavley. County records.

(1) Existing law prescribes the various duties of the county assessor and the county recorder with respect to the filing and maintenance of public documents.

This bill would require the county recorder in each county to develop and maintain, within the existing indexing system, a comprehensive index of conservation easements on land in that county. The bill would also require the county recorder, with respect to conservation easements affecting property within the county, recorded on or after January 1, 2002, to include the conservation easement in the index, if the document

is properly labeled, or if a Notice of Conservation Easement, as set forth in the bill, is also recorded. The bill would authorize specified parties to conservation easements to fill out and record a Notice of Conservation Easement for conservation easements recorded prior to January 1, 2002. By imposing these duties on county officers, this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section ~~27424~~ 27255 is added to the  
2 Government Code, to read:

3 ~~27424.~~—

4 27255. (a) The county recorder in each county shall develop  
5 and maintain, within the existing indexing system, a  
6 comprehensive index of conservation easements and Notice of  
7 Conservation Easements on land within that county. The  
8 conservation easement index developed and maintained pursuant  
9 to this subdivision shall include all conservation easements  
10 recorded on and after January 1, 2002.

11 ~~(b) The county recorder shall not incur any liability for errors~~  
12 ~~or omissions with respect to the indexing of conservation~~  
13 ~~easements.~~

14 ~~(c)~~

15 (b) For the purposes of this section, "conservation easement"  
16 means any limitation in a recorded instrument that contains an  
17 easement, restriction, covenant, condition, or offer to dedicate,  
18 which is or has been executed by or on behalf of the owner of the

1 land subject to that limitation and is binding upon successive  
 2 owners of the land, and the purpose of which is to retain land  
 3 predominantly in its natural, scenic, historical, agricultural,  
 4 forested, or open-space condition. "Conservation easement"  
 5 includes a conservation easement as defined in Section 815.1 of  
 6 the Civil Code, an open-space easement as defined in Section  
 7 51075 of this code, and an agricultural conservation easement as  
 8 defined in Section 10211 of the Public Resources Code.

9 ~~(d)~~

10 (c) On and after January 1, 2002, when a county recorder  
 11 records a new conservation easement affecting property within the  
 12 county, he or she shall include the easement in the index developed  
 13 and maintained pursuant to subdivision (a), if the document  
 14 containing the easement is entitled "Conservation Easement," or  
 15 the following document is properly filled out by the submitter, and  
 16 recorded at the same time, or at a later date:

17 Recording Requested by and  
 18 When Recorded Return To:

<p>19</p> <p>20 There is no fee required for the recording of this document pursuant to</p> <p>21 <del>Government Code Section 6103</del></p> <p>22 NOTICE OF CONSERVATION EASEMENT</p> <p>23 —</p> <p>24 The undersigned hereby gives notice that a Conservation Easement was</p> <p>25 recorded in the _____ County Recorder's Office on</p> <p>26 _____ and recorded as Document _____</p> <p>27 number _____.</p> <p>28 The grantors and grantees of the Conservation Easement were</p> <p>29 Grantors _____</p> <p>30 _____</p> <p>31 Grantees,</p> <p>32 _____</p> <p>33 _____</p> <p>34 I declare under penalty of perjury that the above statement is true and</p> <p>35 correct.</p> <p>36 Signed, _____</p> <p>37 Dated, _____</p> <p>38 —</p> <p>39 THIS NOTICE IS FOR INDEXING PURPOSES ONLY, AND DOES</p> <p>40 NOT, BY ITSELF, CONSTITUTE A CONSERVATION EASEMENT</p>
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1 *There is no fee required for the recording of this document pursuant to*  
2 *Government Code Section 6103*  
3 **NOTICE OF CONSERVATION EASEMENT**  
4  
5 *The undersigned hereby gives notice that a Conservation Easement was*  
6 *recorded in the \_\_\_\_\_ County Recorder's Office on*  
7 *\_\_\_\_\_ and recorded as Document*  
8 *number \_\_\_\_\_.*  
9 *The grantors and grantees of the Conservation Easement were*  
10 *Grantors \_\_\_\_\_*  
11 \_\_\_\_\_  
12 *Grantees \_\_\_\_\_*  
13 \_\_\_\_\_  
14 *I declare under penalty of perjury that the above statement is true and*  
15 *correct.*  
16 *Signed, \_\_\_\_\_*  
17 *Dated, \_\_\_\_\_*  
18  
19 **THIS NOTICE IS FOR INDEXING PURPOSES ONLY, AND DOES NOT,**  
20 **BY ITSELF, CONSTITUTE A CONSERVATION EASEMENT**  
21

22 ~~(e)~~

23 (d) In order to include conservation easements recorded prior  
24 to January 1, 2002, the comprehensive index of conservation  
25 easements and "Notice of Conservation Easements" developed  
26 and maintained pursuant to subdivision (a), any parties to  
27 conservation easements, including, but not limited to, the counties,  
28 cities, recreation and park districts or agencies, state  
29 conservancies, state agencies, the California Coastal Commission,  
30 land trusts, and nonprofit organizations, may fill out and record a  
31 Notice of Conservation Easement pursuant to subdivision (d) for  
32 each previously recorded conservation easement, in the county in  
33 which the affected real property is located.

34 (e) It is the intent of the Legislature that nothing in this section  
35 shall be construed to require a county recorder to develop and  
36 maintain an index separate from the existing indexing system.

37 SEC. 2. Notwithstanding Section 17610 of the Government  
38 Code, if the Commission on State Mandates determines that this  
39 act contains costs mandated by the state, reimbursement to local  
40 agencies and school districts for those costs shall be made pursuant

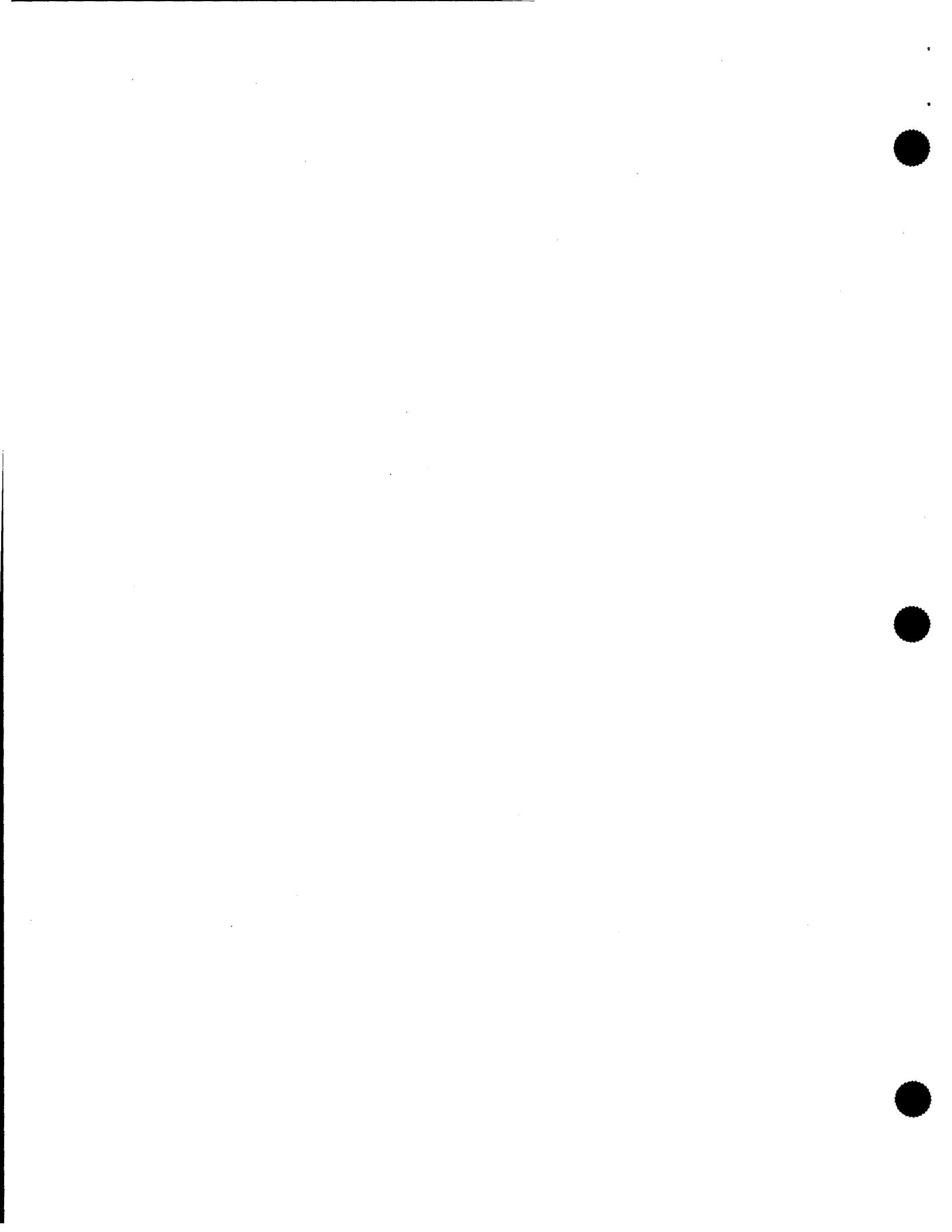




1 to Part 7 (commencing with Section 17500) of Division 4 of Title  
2 2 of the Government Code. If the statewide cost of the claim for  
3 reimbursement does not exceed one million dollars (\$1,000,000),  
4 reimbursement shall be made from the State Mandates Claims  
5 Fund.

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## **BILL ANALYSIS; SB 1069 (Chesbro)**

### **SUMMARY**

SB 1069 would augment the California Integrated Waste Management Act of 1989, requiring that manufacturers of plastic containers recycle at least 50% of their plastic wastes by January 1, 2005.

### **PURPOSE OF THE BILL**

The purpose of the bill is to establish plastic-recycling rates of 50% or more, amongst plastic container manufacturers, by January 1, 2005, thereby reducing the overall amount of plastic wastes distributed into the oceans and elsewhere.

### **EXISTING LAW**

The California Integrated Waste Management Act of 1989 requires, except as specified, every rigid plastic packaging container that is sold or offered for sale in the state to meet at least one of seven specified criteria. This includes requiring that the product be manufactured from 25% postconsumer material, or have 25% recycling rates. Certain rigid plastics packaging, such as food or cosmetics containers, are exempt.

### **PROGRAM BACKGROUND**

According to reports from the California Integrated Waste Management Board, while recycling rates for most waste materials have equaled or exceeded 50%, that of rigid plastic packaging has dropped from a rate of 25% in 1995, to a present rate of less than 18%. From this, approximately 2 million tons of plastic wastes are generated annually, requiring three hundred forty million dollars (\$340,000,000) for disposal. However, much of this waste gradually accretes within the ocean via storm drainage overflow and runoff, ultimately leading to severe non-specific point pollution along the California coastline. An estimated 90% of floating debris in the ocean is plastic.

Accumulation of plastics along the coast creates hazards to marine ecosystems and humans alike. Plastics directly contribute to increasing numbers of marine organisms killed by suffocation, entanglement and ingestion of plastic. Studies performed by the National Marine Mammal Laboratory indicate that plastic entanglement has killed approximately 40,000 seals per year, resulting in an annual 4 to 6% drop in population. Additionally, plastic wastes can become entangled within boat propellers, causing damage to personal watercraft.

### **ANALYSIS**

The most significant problem with plastic debris in the ocean is that plastic does not biodegrade. Instead, it breaks down into tiny fragments which strongly resemble pelagic plankton. This concentrates in "gyres" where marine wildlife feed and congregate, and is ingested along with plankton. As plastic particle concentration increases, it is displacing a growing percentage of natural plankton in the diets of marine birds and fish.

This bill would:

- Require plastic container manufacturers to pay a plastic pollution prevention fee for every container failing to meet the set recycling rate of 50%;
- Require the California Integrated Waste Management Board to set these fees equal to the difference between the scrap value and the cost of recycling for each resin type;

- Require the fees be deposited in the Plastic Pollution Account, created in the Integrated Waste Management Fund in the State Treasury, for use in promoting the recycling of plastic containers;
- Authorize the board to adopt regulations to implement the bill.

The Coastal Act mandates the protection of marine and coastal waters to enhance biological productivity and human health. Implementation of a 50% or greater recycling rate for plastic packaging should prevent a significant amount of plastic waste from reaching the coast, thereby reducing the threat to marine species and overall volume of pollutants entering the ocean. Specifically, SB 1069 would restrict the amount of plastic pollutants introduced and distributed along California's coast, enhance the overall biological productivity of coastal waters, and prevent the further depletion of a variety of species within coastal waters.

### **SUPPORT/OPPOSITION**

#### Support:

More than 100 counties, cities, and environmental organizations, including:

City of Long Beach  
City of Santa Monica  
City of San Francisco  
League of California Cities  
County of Santa Cruz  
County of Sonoma  
County of Ventura  
Sierra Club  
Environmental Defense Center  
Heal the Bay  
Community Environmental Council  
Marine Mammal Center  
Natural Resources Defense Council  
Santa Monica Bay Audubon Society

#### Opposition:

Abbott Laboratories  
American Plastics Council  
California Chamber of Commerce  
California League of Food Processors  
California Manufacturers and Technology Association  
California Packaging Alliance  
California Paint Council  
Clorox Company  
Dairy Council of California  
Dairy Institute of California  
McKesson HBOC  
Soap and Detergent Association  
Plastic Industry Trade Association

### **RECOMMENDED POSITION**

Staff recommends the Commission **Support** SB 1069.

AMENDED IN SENATE APRIL 30, 2001  
AMENDED IN SENATE APRIL 19, 2001  
AMENDED IN SENATE APRIL 16, 2001

**SENATE BILL**

**No. 1069**

**Introduced by Senator Chesbro**

February 23, 2001

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An act to add Sections 42360.1, 42360.2, 42375, 42376, and 42377 to the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, as amended, Chesbro. Plastic pollution prevention fee.

The California Integrated Waste Management Act of 1989 requires, except as specified, every rigid plastic packaging container, as defined, that is sold or offered for sale in the state to meet, on average, at least one of 7 specified criteria, including being made from 25% postconsumer material or having a specified recycling rate of 25%, based on annual reports published by the California Integrated Waste Management Board. Certain rigid plastic packaging containers are exempted from meeting those criteria, including those containers that contain food or cosmetics.

This bill would require any manufacturer, as defined, of a product sold or offered for sale in a plastic container, as defined, to pay a plastic pollution prevention fee to the board for every plastic container of a resin type that fails to equal or exceed a recycling rate of 50% or more on or before January 1, 2005. The bill would require the board to set the plastic pollution prevention fee *in an amount* equal to the difference between the scrap value and the cost of recycling for each resin type, except as specified.

The bill would require the board to deposit the fees in the Plastic Pollution Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury. The bill would authorize the board to expend the moneys deposited in the Plastic Pollution Account to promote the recycling of plastic containers, including but not limited to, payments to recyclers and local governments to offset the cost of recycling plastic containers.

The bill would authorize the board to adopt regulations to implement the bill.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:
- 3 (a) A decade ago, in order to reduce waste and conserve natural  
4 resources, the Legislature committed to cutting solid waste  
5 disposal in this state in half.
- 6 (b) While this effort remains incomplete, the state, in  
7 partnership with local government, the private sector, and the  
8 public, has developed a comprehensive recycling infrastructure,  
9 and achieved one of the nation's highest waste diversion rates.
- 10 (c) Dozens of jurisdictions, along with several categories of  
11 materials, have already equaled or exceeded 50 percent recycling.
- 12 (d) Amidst this recycling success, one category of  
13 materials—plastic packaging—stands out as a recycling failure.  
14 While plastic packaging remains one of the fastest growing  
15 components of California's waste stream, recycling rates for  
16 plastic packaging lag behind those for virtually every other  
17 packaging material.
- 18 (e) According to reports from the California Integrated Waste  
19 Management Board, recycling rates for rigid plastic packaging  
20 containers have actually been in decline, dropping from nearly 25  
21 percent in 1995, to 23 percent in 1996, 22 percent in 1997, 19  
22 percent in 1998, and less than 18 percent in 1999.
- 23 (f) According to a report from the California Integrated Waste  
24 Management Board, California disposed of more than 2 million  
25 tons of plastic packaging in 1999. The total cost to local  
26 governments and ratepayers of collecting and disposing of this

1 plastic waste is estimated at three hundred forty million dollars  
2 (\$340,000,000) annually.

3 SEC. 2. Section 42360.1 is added to the Public Resources  
4 Code, to read:

5 42360.1. "Manufacturer" means the producer or generator of  
6 a product that is sold or offered for sale in the state and that is stored  
7 inside a plastic container.

8 SEC. 3. Section 42360.2 is added to the Public Resources  
9 Code, to read:

10 42360.2. "Plastic container" means any plastic package  
11 having a relatively inflexible finite shape or form, with a minimum  
12 capacity of eight fluid ounces ~~gallons~~ or its equivalent volume, and  
13 a maximum capacity of five fluid ~~ounces~~ *gallons* or its equivalent  
14 volume, which is capable of maintaining its shape while holding  
15 other products, including, but not limited to, bottles, cartons, cups,  
16 bowls, clamshells, and other receptacles, for sale or distribution in  
17 the state.

18 SEC. 4. Section 42375 is added to the Public Resources Code,  
19 to read:

20 42375. (a) It is the intent of the Legislature that this state  
21 pursue a path of shared responsibility between product producers,  
22 container manufactures, local governments, and private recyclers  
23 to ensure that, by 2005 and beyond, at least 50 percent of plastic  
24 containers are diverted from this state's solid waste and litter  
25 stream and recycled into new products.

26 (b) It is the intent of the Legislature that manufacturers of  
27 products sold in plastic containers shall be responsible for  
28 offsetting costs associated with the recycling of those plastic  
29 containers.

30 (c) It is the intent of the Legislature that operators of curbside  
31 recycling programs in this state accept for recycling any plastic  
32 container for which they receive revenue from scrap value,  
33 product manufacturers, or the state, the total of which is equal to  
34 or greater than the cost of recycling.

35 SEC. 5. Section 42376 is added to the Public Resources Code,  
36 to read:

37 42376. (a) On and after January 1, 2006, any manufacturer of  
38 a product sold or offered for sale in a plastic container shall pay a  
39 plastic pollution prevention fee to the board, as determined  
40 pursuant to subdivision (b), for every plastic container of a resin

1 type that fails to equal or exceed a recycling rate of 50 percent or  
2 more on or before January 1, 2005.

3 (b) (1) The board shall set the amount of the plastic pollution  
4 prevention fee equal to the difference between the average cost of  
5 recycling and the average scrap value for each resin type as  
6 determined by the board.

7 (2) For plastic containers that are not recyclable, the board shall  
8 set the plastic pollution prevention fee in an amount equal to the  
9 average cost of collection and disposal of the container as solid  
10 waste.

11 (c) The provisions of this section shall not apply to a beverage  
12 or beverage container, as defined in Sections 14504 and 14505,  
13 *respectively*.

14 SEC. 6. Section 42377 is added to the Public Resources Code,  
15 to read:

16 42377. (a) The board shall deposit all fees collected pursuant  
17 to this article in the Plastic Pollution Account, which is hereby  
18 created in the Integrated Waste Management Fund in the State  
19 Treasury. The board may expend the moneys deposited in the  
20 Plastic Pollution Account to promote the recycling of plastic  
21 containers, including, but not limited to, payments to recyclers and  
22 local governments to offset the cost of recycling plastic containers.

23 (b) The board may adopt regulations to implement this article.

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25 CORRECTIONS

26 Text — Page 3.

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