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**AB-1005 California Beverage Container Recycling and Litter Reduction Act: market development payments.** (2015-2016)

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**Assembly Bill No. 1005**

**CHAPTER 442**

An act to amend Sections 14549.2 and 14581 of the Public Resources Code, relating to beverage containers, and making an appropriation therefor.

[ Approved by Governor September 22, 2016. Filed with Secretary of State September 22, 2016. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1005, Gordon. California Beverage Container Recycling and Litter Reduction Act: market development payments.

Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a distributor to pay a redemption payment for every beverage container sold or offered for sale in the state by the distributor to the Department of Resources Recycling and Recovery for deposit in the California Beverage Container Recycling Fund. Moneys in the fund are continuously appropriated to the department for certain payments, including market development payments. Existing law authorizes the department, until that authorization is repealed on January 1, 2017, to (1) annually expend up to \$10,000,000 from the fund to make market development payments to an entity certified by the department as a recycling center, processor, or dropoff or collection program for empty plastic beverage containers that are subsequently washed and processed into flake, pellet, or other form, and made usable for the manufacture of a plastic product, or to a product manufacturer for empty plastic beverage containers that are subsequently washed and processed into flake, pellet, or other form, and used by that product manufacturer to manufacture a product, and to (2) expend additional amounts to make market development payments, calculated as provided.

This bill would postpone that repeal until January 1, 2018. By extending the term of a continuous appropriation, this bill would make an appropriation.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 14549.2 of the Public Resources Code is amended to read:

**14549.2.** (a) For purposes of this section, the following definitions shall apply:

(1) "Certified entity" means a recycling center, processor, or dropoff or collection program certified pursuant to this division.

(2) "Product manufacturer" means a person who manufactures a plastic product in this state.

(b) In order to develop California markets for empty plastic beverage containers collected for recycling in the state, the department may, consistent with Section 14581 and subject to the availability of funds, pay a market development payment to a

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

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

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

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

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

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

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

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

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

(d) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

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

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

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

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

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

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

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

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

(E) The department shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and

county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

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

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

(5) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited both of the following:

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

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

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

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

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

(8) (A) Up to ten million dollars (\$10,000,000) may be expended annually by the department for market development payments for empty plastic beverage containers pursuant to Section 14549.2, until January 1, 2018.

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

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

(i) The department shall annually determine, on or before January 1, whether the amount of funds estimated to be necessary pursuant to clause (ii) of subparagraph (A) of paragraph (5) for deposit to a processing fee account established by the department for plastic beverage containers to make processing payments for plastic beverage containers for the current calendar year is less than the total amount of funds that were estimated to be necessary the previous calendar year pursuant to clause (ii) of subparagraph (A) of paragraph (5) for deposit to that processing fee account.

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

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

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

(v) If the department determines that there are insufficient funds to both make the market development payments pursuant to subparagraph (B) and to deposit the amount required by clause (ii) of subparagraph (A) of paragraph (5), for

purposes of making the processing payments and reducing the processing fees pursuant to Section 14575 for plastic beverage containers, the department shall suspend the implementation of this subparagraph and subparagraph (B).

(D) Subparagraphs (B) and (C) shall remain operative only until January 1, 2018.

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

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

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

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

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