

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: April 17, 2013

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations
Committee

FROM: Gerry F. Miller 
Chief Legislative Analyst

Assignment No. 13-04-0304
Council File No. 13-0002-S58

SUBJECT: Resolution (Koretz – Huizar) on AB 1337 – Plastic Bag Fee/Ban Prohibitions

CLA RECOMMENDATION: ADOPT Resolution (Koretz – Huizar), which would include in the City's 2013-14 State Legislative Program OPPOSITION to AB 1337 (Allen), which would prohibit local governments from banning or mandating fees on single-use plastic bags; and support for legislation to implement a statewide approach to eliminating the use of single-use plastic bags through a ban and/or system of related fees.

SUMMARY

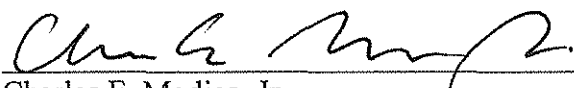
Resolution (Koretz – Huizar), introduced on April 10, 2013, is in opposition to AB 1337 (Allen), a bill that would prohibit local governments from banning and placing fees on specified single-use bags. The Resolution states that plastic bags represent a substantial source of litter that pollutes Los Angeles streets, waterways, and beaches, and notes the City is currently phasing in a ban on the distribution of plastic bags at retail stores.

AB 1337 was introduced by Assembly Member Allen (R-Orange County) on February 22, 2013, and amended to its current form on March 21, 2013. The bill would prohibit local governments from establishing laws that prohibit local retail establishments from providing customers single-use plastic bags for purposes of containing meat, poultry, fruits, vegetables, household chemical products, or food or products intended for consumption or use by domestic pets. The bill would additionally prohibit local governments from mandating that fees be placed on single-use bags that are not made of plastic.

In 2012, the City adopted a policy that, upon completion of an environmental impact report, will phase in a ban on single-use plastic bags at City retailers, and that will also phase in a mandatory fee on paper single-use bags. AB 1337's provisions directly and explicitly conflict with implementation of the City's adopted policy. Opposition to AB 1337 would therefore be consistent with established City policy, as well as past legislative positions in support of prohibiting distribution of and/or establishing fees on single-use bags (see CFs 12-0002-S76, 10-0002-S65, 08-0002-S12, et al.).

BILL STATUS

2/22/13 Introduced
3/21/13 Last Amended
3/21/13 Ref. to Coms. on Nat. Res. and L. Gov


Charles E. Modica, Jr.
Analyst

Attachments:

- (1) Resolution (Koretz – Huizar)
- (2) AB 1337

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, approximately 6 billion single-use plastic bags are used in Los Angeles County each year, and few of them are recycled; and

WHEREAS, single-use plastic bags often end up as litter that pollutes Los Angeles' streetscapes, waterways, wetlands and beaches; and

WHEREAS, in 2012 the City adopted a plan that phases out the use of single-use plastic bags by implementing a ban on their distribution at retail stores, and that would also phase in a requirement that retailers charge for paper bags, and the City continues to move forward with the implementation of that plan; and

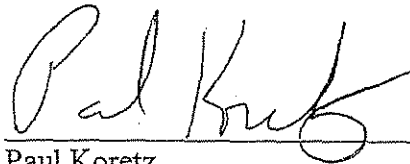
WHEREAS, the environmental problems caused by plastic bags are real and are not limited to the City, and attempts to prohibit local governments from regulating bags harm the environment and further represent infringements on the ability of local governments to control their own jurisdictions; and

WHEREAS, State Assembly Member Allen has introduced AB 1337, which would prohibit local cities, counties, and agencies from adopting or enforcing a ban or fee on single-use plastic bags; and

WHEREAS, adoption of AB 1337 would set back useful environmental regulations by years, would prevent local governments from addressing the related problems that they are faced with daily, and would keep the City from implementing its own solutions to this problem;

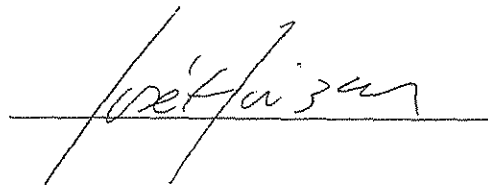
NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-2014 State Legislative Program **OPPOSITION** to AB 1337 (Allen), which would prohibit local governments from banning or mandating fees on single-use plastic bags; and support for legislation to implement a statewide approach to eliminating the use of single-use plastic bags through a ban and/or system of related fees.

PRESENTED BY:


 Paul Koretz
 Councilmember, 5th District

APR 10 2013

SECONDED BY:



AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013—14 REGULAR SESSION

ASSEMBLY BILL

No. 1337

Introduced by Assembly Member Allen

February 22, 2013

An act to amend Section 42251 of ~~add~~ Section 42254.5 to the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, as amended, Allen. Solid waste: plastic bag: recycling.

Existing law requires a store, as defined, to establish an at-store recycling program to provide an opportunity for a customer of the store to return to the store clean plastic carryout bags. Existing law authorizes a retail establishment that is not a store, as defined, and that provides plastic carryout bags, to adopt an at-store recycling program.

~~This bill would make technical, nonsubstantive changes to the above provision~~ *prohibit a city, county, or other public agency from adopting, implementing, or enforcing an ordinance, resolution, regulation, or rule that prohibits a retail establishment from offering to its customers, or otherwise prohibits a person from using, a single-use plastic carryout bag for purposes of containing specified products. The bill would also prohibit a city, county, or other public agency that otherwise prohibits the distribution of single-use plastic carryout bags by retail establishments from adopting, implementing, or enforcing an ordinance, resolution, regulation, or rule that imposes a fee, tax, or other charge upon a retail establishment that provides a single-use carryout bag that is not made of plastic to its customers or that requires the retail establishment to collect a fee, tax, or other charge from a customer for*

providing that type of single-use carryout bag. The bill would declare the matters regulated by the bill are of statewide interest and concern.

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

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

1 SECTION 1. Section 42254.5 is added to the Public Resources
2 Code, to read:

3 42254.5. (a) For purposes of this section, "household chemical
4 product" means a chemically formulated product used by
5 households or consumers, including, but not limited to, detergents,
6 cleaning compounds, polishes, floor finishes, cosmetics, personal
7 care products, home, lawn, and garden products, disinfectants,
8 and sanitizers.

9 (b) The Legislature finds and declares that both of the following
10 are matters of statewide interest and concern:

11 (1) The use of single-use plastic carryout bags for the purposes
12 specified in subdivision (c).

13 (2) The imposition of a tax, fee, or charge for providing a
14 single-use carryout bag that is not made of plastic, as specified in
15 subdivision (d).

16 (c) A city, county, or other public agency, including, but not
17 limited to, a chartered city or county, shall not adopt, implement,
18 or enforce an ordinance, resolution, regulation, or rule that
19 prohibits a retail establishment from offering to its customers, or
20 that otherwise prohibits a person from using, a single-use plastic
21 carryout bag for purposes of containing meat, poultry, fruits,
22 vegetables, household chemical products, or food or products
23 intended for consumption or use by domestic pets.

24 (d) A city, county, or other public agency, including, but not
25 limited to, a chartered city or county, that otherwise prohibits the
26 distribution of single-use plastic carryout bags by a retail
27 establishment to its customers shall not adopt, implement, or
28 enforce an ordinance, resolution, regulation, or rule that imposes
29 a fee, tax, or other charge upon a retail establishment that provides
30 a single-use carryout bag that is not made of plastic to its
31 customers or that requires the retail establishment to collect a fee,
32 tax, or other charge from a customer for providing a single-use
33 carry-out bag that is not made of plastic.

1 (e) *This section does not prohibit a retail establishment from*
2 *selling a reusable bag to its customers.*

3 ~~SECTION 1. Section 42251 of the Public Resources Code is~~
4 ~~amended to read:~~

5 ~~42251. (a) The operator of a store shall establish an at-store~~
6 ~~recycling program pursuant to this chapter that provides an~~
7 ~~opportunity for a customer of the store to return to the store clean~~
8 ~~plastic carryout bags.~~

9 ~~(b) A retail establishment that is not a store, as specified in~~
10 ~~Section 42250, and that provides plastic carryout bags to customers~~
11 ~~at the point of sale may also adopt an at-store recycling program,~~
12 ~~as specified in this chapter.~~