

2016

Carryout Bags. Charges. Initiative Statute.

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_props

Recommended Citation

Carryout Bags. Charges. Initiative Statute. California Proposition 65 (2016).
http://repository.uchastings.edu/ca_ballot_props/1358

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.

PROPOSITION **CARRYOUT BAGS. CHARGES.**
65 INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Redirects money collected by grocery and certain other retail stores through sale of carryout bags, whenever any state law bans free distribution of a particular kind of carryout bag and mandates the sale of any other kind of carryout bag.
- Requires stores to deposit bag sale proceeds into a special fund administered by the Wildlife Conservation Board to support specified categories of environmental projects.

- Provides for Board to develop regulations implementing law.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Potential state revenue of several tens of millions of dollars annually under certain circumstances. Revenue would be used to support certain environmental programs.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Carryout Bag Usage. Stores typically provide their customers with bags to carry out the items they buy. One type of bag commonly provided is the “single-use plastic carryout bag,” which refers to a thin plastic bag used at checkout that is not intended for continued reuse. In contrast, “reusable plastic bags” are thicker and sturdier so that they can be reused many times. Many stores also provide single-use paper bags. Stores frequently provide single-use paper and plastic carryout bags to customers for free, and some stores offer reusable bags for sale. Each year, roughly 15 billion single-use plastic carryout bags are provided to customers in California (an average of about 400 bags per Californian).

Many Local Governments Restrict Single-Use Carryout Bags. Many cities and counties in California have adopted local laws in recent years restricting or banning single-use carryout bags. These local laws have been implemented due to concerns about how the use of such bags can impact the environment. For example, plastic bags can contribute to litter and can end up in waterways. In addition, plastic bags can be difficult to recycle because they can get tangled in recycling machines. Most of these local laws ban single-use plastic carryout bags at grocery stores, convenience stores, pharmacies, and liquor stores. They also usually require the store to charge at least 10 cents for the sale of any carryout bag. Stores are allowed to keep the resulting revenue. As of June 2016, there were local carryout bag laws in about 150 cities and counties—covering about 40 percent of California’s population—mostly in areas within coastal counties.

Statewide Carryout Bag Law. In 2014, the Legislature passed and the Governor signed a statewide carryout bag law, Senate Bill (SB) 270. Similar to many local laws, SB 270 prohibits most grocery stores, convenience stores, large pharmacies, and liquor stores in the state from providing single-use plastic

carryout bags. It also requires a store to charge customers at least 10 cents for any carryout bag that it provides at checkout. Certain low-income customers would not have to pay the charge. Under SB 270, stores would retain the revenue from the sale of the bags. They could use the proceeds to cover the costs of providing carryout bags, complying with the measure, and educational efforts to encourage the use of reusable bags. These requirements would apply only to cities and counties that did not already have their own carryout bag laws as of the fall of 2014.

Referendum on SB 270. Under the State Constitution, a new state law can be placed before voters as a referendum to determine whether the law can go into effect. A referendum on SB 270 qualified for this ballot (Proposition 67). If the referendum passes, SB 270 will go into effect. If it does not pass, SB 270 will be repealed.

PROPOSAL

Redirects Carryout Bag Revenue to New State Environmental Fund. This measure specifies how revenue could be used that resulted from any state law that (1) prohibits giving certain carryout bags away for free and (2) requires a minimum charge for other types of carryout bags. Specifically, this measure requires that the resulting revenue be deposited in a new state fund—the Environmental Protection and Enhancement Fund—for various environmental purposes rather than be retained by stores. The fund would be used to support grants for programs and projects related to (1) 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 allows a small portion of these funds to be used for grant administration and biennial audits of the programs receiving funds.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Other Provisions. Additionally, the measure allows local governments to require that money collected from local carryout bag laws go to the new state fund rather than allowing that revenue to be kept by stores. It also includes a provision regarding the implementation of this measure and any other carryout bag measure on this ballot. This provision could be interpreted by the courts as preventing Proposition 67 (the referendum on SB 270) from going into effect. This provision would only have an effect if both measures pass and this measure (Proposition 65) gets more “yes” votes. However, this analysis assumes that in this situation the provisions of Proposition 67 not related to the use of revenues—such as the requirement to ban single-use plastic carryout bags and charge for other bags—would still be implemented.

FISCAL EFFECTS

If the requirements of this measure (that there is a state law prohibiting giving certain carryout bags away for free and requiring a minimum charge for other bags) are met, then there would be increased state revenue for certain environmental programs. This revenue could reach 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 carryout bags.

At the present time, there is no state law in effect that meets this measure’s requirements. As such, there would be no fiscal effect as long as that continued. As noted earlier, however, Proposition 67 on this ballot would enact such a state law. If both Proposition 67 and this measure (Proposition 65) pass, the impact on the state would depend on which one receives the most votes:

- **Proposition 67 (Referendum) Receives More Votes.** In this situation, revenue collected by the stores

would be kept by the stores and there would not be a fiscal impact on the state related to Proposition 65.

- **Proposition 65 (Initiative) Receives More Votes.** In this situation, any revenue collected by stores from the sale of carryout bags would be transferred to the new state fund, with the increased state revenue used to support certain environmental programs.

In addition, if only this measure passes and Proposition 67 fails (which means there would not currently be a statewide law to which this measure would apply), there could still be a fiscal impact if a state carryout bag law was enacted in the future. Figure 1 shows how this measure would be implemented differently depending on different voter decisions.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee’s top 10 contributors.

Figure 1
Implementation of Proposition 65
Would Be Affected by Outcome of Referendum

	Proposition 67 (SB 270 Referendum) Passes	Proposition 67 (SB 270 Referendum) Fails
Proposition 65 (Initiative) Passes	Statewide carryout bag law in effect. Use of revenues from sale of carryout bags depends on which proposition gets more votes: <ul style="list-style-type: none"> • If more “yes” votes for referendum, revenue is kept by stores. • If more “yes” votes for initiative, revenue goes to state for environmental programs.^a 	No statewide carryout bag law. Revenue from any future statewide law similar to SB 270 would be used for environmental programs.
Proposition 65 (Initiative) Fails	Statewide carryout bag law in effect and revenue from the sale of carryout bags is kept by stores.	No statewide carryout bag law.

^a Alternatively, a provision of Proposition 65 could be interpreted by the courts as preventing Senate Bill (SB) 270 from going into effect at all.



★ ARGUMENT IN FAVOR OF PROPOSITION 65 ★

STOP THE SWEETHEART BAG TAX DEAL. HELP THE ENVIRONMENT

Proposition 65 is needed to STOP grocery stores from keeping all the money collected from carryout bag taxes as profit instead of helping the environment.

Grocery stores stand to gain up to \$300 million in added profits each and every year unless you vote yes on Prop. 65.

That money should be dedicated to the environment, not more profits for corporate grocery chains.

Proposition 65 will STOP THE SWEETHEART DEAL WITH GROCERY STORES and dedicate bag fees to worthy environmental causes.

A SWEETHEART DEAL IN SACRAMENTO

Who in their right mind would let grocery stores keep \$300 million in bag fees paid by hardworking California shoppers just trying to make ends meet?

The State Legislature!

In a sweetheart deal put together by special interest lobbyists, the Legislature voted to let grocery stores keep bag fees as *extra* profit.

The grocery stores will get \$300 million richer while shoppers get \$300 million poorer.

SHAME ON THE LOBBYISTS AND LEGISLATORS

The big grocery store chains and retailers gave big campaign contributions to legislators over the past seven years.

And legislators rewarded them with \$300 million in new profits—all on the backs of shoppers.

Stop the sweetheart special interest deal . . . VOTE YES ON PROP. 65.

A BETTER WAY TO HELP THE ENVIRONMENT

You can do what the legislators should have done—dedicate these bag fees to real projects that protect the environment.

Proposition 65 dedicates the bag fees to environmental projects like drought relief, beach clean-up and litter removal.

It puts the California Wildlife Conservation Board in control of these funds, not grocery store executives, so Californians will benefit.

PROTECT THE ENVIRONMENT. STOP THE SWEETHEART DEAL AND HIDDEN BAG TAX.

VOTE YES ON PROP. 65.

THOMAS HUDSON, Executive Director
California Taxpayer Protection Committee

DEBORAH HOWARD, Executive Director
California Senior Advocates League

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 65 ★

65

The *San Jose Mercury News* calls Proposition 65 a “tricky strategy” and adds “Prop. 65 deserves consideration as one of the most disingenuous ballot measures in state history.”

The out-of-state plastic manufacturers behind Prop. 65 don’t care about protecting California’s environment. They want to confuse you. Don’t be fooled.

Bags aren’t free; they cost your local grocer up to 15 cents each. The out-of-state plastic bag industry figures are bogus. The state’s nonpartisan analysis projects that total revenue from Prop. 65 is in the range of “zero” to, at best, \$80 million.

Remember: there will be “zero” funding for the environment from Prop. 65 unless voters approve Prop. 67 to phase out plastic bags.

But the plastic manufacturers behind Prop. 65 are spending millions to persuade voters to oppose Prop. 67. Confused? That’s the plastic industry’s plan!

If you care about protecting wildlife and standing up to the out-of-state plastic bag industry, Vote Yes on Prop. 67, not this measure.

If you care about reducing plastic pollution, litter and waste, Vote Yes on Prop. 67, not this measure.

If you care about reducing taxpayer costs for cleaning up plastic litter, Vote Yes on Prop. 67, not this measure.

MARK MURRAY, Executive Director
Californians Against Waste

★ ARGUMENT AGAINST PROPOSITION 65 ★

THE SOLE PURPOSE OF PROP. 65 IS TO CONFUSE VOTERS

Prop. 65 promises a lot but—in reality—will deliver little for the environment. It was placed on the ballot by four out-of-state plastic bag companies who keep interfering with California’s efforts to reduce plastic pollution.

65 is without real significance, designed to distract from the issue at hand: phasing out plastic shopping bags. All 65 would do is direct funding from the sale of paper bags (an option under the plastic bag ban) to a new state fund. The money for this fund is a drop in the bucket and will shrink over time as people adjust to bringing reusable bags.

TO ACTUALLY PROTECT OUR ENVIRONMENT, VOTE YES ON 67

The priority for California’s environment this election is to reduce harmful plastic pollution by voting Yes on Prop. 67. This will continue efforts to keep wasteful plastic shopping bags out of our parks, trees, neighborhoods and treasured open spaces.

Prop. 65 is not worth your vote. Make your voice heard on the more important issues and uphold California’s vital plastic bag ban further down the ballot.

MARK MURRAY, Executive Director
Californians Against Waste

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 65 ★

The opponents of Prop. 65 want to dismiss it as “of no real significance”.

YOU DECIDE: IS A \$300 MILLION MONEY GRAB BY GROCERY STORES NOT SIGNIFICANT?

Without Prop. 65, not one penny of the \$300 million customers will be required to pay if California’s ban on plastic bags goes into effect will help the environment.

All \$300 million will go to grocery store profits. **THAT’S \$300 MILLION EVERY YEAR!**

VOTE YES ON 65—STOP THE SWEETHEART GIVEAWAY TO GROCERS.

In a sweetheart deal put together by special interest lobbyists, the Legislature voted to **BAN** plastic bags and **REQUIRE** grocery stores keep bag fees as profit.

Their “plastic bag ban” **REQUIRES** grocery stores to charge every consumer given a bag at check-out no less than 10 cents per bag.

They could have banned plastic bags without a fee or dedicated fees to environmental projects.

They didn’t.

Instead, they made grocery stores \$300 million richer and shoppers \$300 million poorer every year. **A BETTER WAY TO PROTECT THE ENVIRONMENT.**

You can do what the Legislature should have done—dedicate bag fees to projects that protect the environment.

Prop. 65 dedicates bag fees to environmental projects like drought relief, beach clean-up and litter removal.

It puts the California Wildlife Conservation Board in control of these funds, not grocery store executives.

PROP. 65 WILL DEDICATE BAG FEES TO THE ENVIRONMENT.

It’s simple and significant.

Join us—vote YES.

THOMAS HUDSON, Executive Director
California Taxpayer Protection Committee

DEBORAH HOWARD, Executive Director
California Senior Advocates League

consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

SEC. 9.4. Section 81007 of the Food and Agricultural Code is repealed.

~~81007. (a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.~~

~~(b) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.~~

SEC. 9.5. Section 81008 of the Food and Agricultural Code is amended to read:

81008. *Attorney General Reports; Requirements.*

(a) Not later than January 1, 2019, ~~or five years after the provisions of this division are authorized under federal law, whichever is later,~~ the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:

(1) A field of industrial hemp being used to disguise marijuana cultivation.

(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.

SEC. 9.6. Section 81010 of the Food and Agricultural Code is amended to read:

81010. *Operation of Division.*

(a) This division, ~~and Section 221 shall not become operative unless authorized under federal law on January 1, 2017.~~

(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 (commencing with Section 26000) of the Business and Professions Code.

SEC. 10. Amendment.

This act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this act contained in Sections 5 to 5.5, inclusive, and Sections 6 to 6.3, inclusive, to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this act as stated in Section 3. Amendments to this act that enact protections for employees and other workers of licensees under Sections 6 to 6.3, inclusive, of this act

that are in addition to the protections provided for in this act or that otherwise expand the legal rights of such employees or workers of licensees under Sections 6 to 6.3, inclusive, of this act shall be deemed to be consistent with and further the purposes and intent of this act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this act. Except as otherwise provided, the provisions of the act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the act.

SEC. 11. Construction and Interpretation.

The provisions of this act shall be liberally construed to effectuate the purposes and intent of the Control, Regulate and Tax the Adult Use of Marijuana Act; provided, however, no provision or provisions of this act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the federal Controlled Substances Act, such that the provision or provisions of this act and federal law cannot consistently stand together.

SEC. 12. Severability.

If any provision in this act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 13. Conflicting Initiatives.

In the event that this measure and another measure or measures concerning the control, regulation, and taxation of marijuana, medical marijuana, or industrial hemp appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

PROPOSITION 65

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Public Resources Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the Environmental Fee Protection Act.

SEC. 2. Findings and Declarations.

The people of the State of California find and declare as follows:

(a) In 2014, the California State Legislature enacted a ban on plastic carryout bags after lobbying by special interests including the California Grocers Association.

(b) The law further mandated that stores sell every paper or reusable carryout bag they provide to consumers for a minimum of 10 cents. Stores can charge even more if they so choose, and the grocers and retailers are specifically

64

65

required by the law to keep these mandated sales charges as extra revenue.

(c) None of the sales charges on carryout bags required by state law will go to environmental purposes. The Legislature specifically wrote the law in such a way as to make these sales charges additional revenue to grocers and retailers.

(d) This special interest deal will provide grocers and retailers over \$400 million in added revenue every year—all at the expense of California consumers and with little or no benefit to the environment.

(e) The people of California have every right to expect that any sales charges on carryout bags they are required by state law to pay are dedicated to protecting the environment, not enriching corporations.

SEC. 3. Statement of Purpose.

The purpose of the Environmental Fee Protection Act is to fulfill Californians' expectations by requiring that any charges on carryout bags paid by consumers in connection with, or to advance, any plastic bag ban are dedicated to appropriate and worthy environmental objectives like drought mitigation, recycling, clean drinking water supplies, parks, beach cleanup, litter removal, and wildlife habitat restoration.

SEC. 4. Chapter 5.2 (commencing with Section 42270) is added to Part 3 of Division 30 of the Public Resources Code, to read:

*CHAPTER 5.2. CARRYOUT BAG CHARGES:
ENVIRONMENTAL PROTECTION AND ENHANCEMENT*

42270. This chapter shall be known, and may be cited, as the Environmental Fee Protection Act.

42271. (a) Notwithstanding any other provision of law, all moneys generated or collected by a store pursuant to a state law that bans free distribution of any type of carryout bag, and mandates the sale of any other type of carryout bag, shall be deposited into the Environmental Protection and Enhancement Fund, which is established in the State Treasury and administered by the Wildlife Conservation Board pursuant to Section 42272.

(b) For purposes of this chapter:

(1) "Store" means a retail establishment that meets any of the following requirements:

(A) A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000) or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items.

(B) Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(C) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(D) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(2) "State law" means any statute, law, regulation, or other legal authority adopted, enacted, or implemented before or after the effective date of this section by the State of California or any agency or department thereof.

(3) "Carryout bag" means single-use carryout bags, paper bags, recycled paper bags, plastic bags, recyclable plastic bags, reusable plastic bags, compostable bags, reusable grocery bags, or any other kind of bags used to carry purchased items away from a store.

(c) (1) The Wildlife Conservation Board may adopt regulations, and coordinate or contract with other state or local agencies, in furtherance of the administration and implementation of subdivision (a) of this section, Section 42272, and Section 42273.

(2) Notwithstanding any other provision of law, a loan in the amount of five hundred thousand dollars (\$500,000) is hereby made from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 (Section 75009) to the Wildlife Conservation Board for the purpose of adopting regulations for the administration and implementation of subdivision (a) of this section, Section 42272, and Section 42273. If the moneys in the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 are insufficient to make the loan required by this paragraph, then the loan shall be made from the Water Quality, Supply, and Infrastructure Improvement Fund of 2014 (Section 79715 of the Water Code). All moneys deposited into the Environmental Protection and Enhancement Fund shall first be used to repay the loan until the full loan amount is repaid. The Controller and all other responsible state officials shall take all actions necessary to effectuate the loan required by this paragraph.

42272. (a) The Environmental Protection and Enhancement Fund is hereby established in the State Treasury.

(b) Notwithstanding any other provision of law, the Environmental Protection and Enhancement Fund is a trust fund established solely to carry out the purposes of this chapter. Notwithstanding Section 13340 of the Government Code, all moneys deposited in the fund, together with interest earned by the fund, are hereby continuously appropriated, without regard to fiscal years, to the Wildlife Conservation Board solely for the purposes set forth in subdivision (c).

(c) The Wildlife Conservation Board shall use the moneys in the Environmental Protection and Enhancement Fund to fund environmental protection and enhancement grants. Projects and programs eligible for grants are as follows:

(1) Drought mitigation projects including, but not limited to, drought-stressed forest remediation and projects that expand or restore wetlands, fish habitat, or waterfowl habitat.

(2) Recycling.

(3) Clean drinking water supplies.

(4) State, regional, and local parks.

(5) Beach cleanup.

(6) Litter removal.

(7) Wildlife habitat restoration.

(d) The Wildlife Conservation Board shall use no more than 2 percent of the moneys in the Environmental Protection and Enhancement Fund for administrative

expenses. Grant recipients shall use no more than 5 percent of any moneys received for administrative expenses.

(e) Prior to disbursing any grants pursuant to this chapter, the Wildlife Conservation Board shall develop project solicitation and evaluation guidelines. The guidelines may include a limitation on the dollar amounts of grants to be awarded. Prior to finalizing the guidelines, the Wildlife Conservation Board shall post the draft guidelines on its Internet Web site and conduct three public hearings to consider public comments. One public hearing shall be held in Northern California, one hearing shall be held in the Central Valley, and one hearing shall be held in Southern California.

(f) (1) The nonpartisan California State Auditor shall conduct a biennial independent financial audit of the programs receiving funds pursuant to this chapter. The California State Auditor shall report its findings to the Governor and both houses of the Legislature, and shall make the findings available to the public on its Internet Web site.

(2) (A) The California State Auditor shall be reimbursed from moneys in the Environmental Protection and Enhancement Fund for actual costs incurred in conducting the biennial audits required by this subdivision, in an amount not to exceed four hundred thousand dollars (\$400,000) per audit.

(B) The four hundred thousand dollar (\$400,000) per audit maximum limit shall be adjusted biennially to reflect any increase or decrease in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer's office shall calculate and publish the adjustments required by this paragraph.

42273. (a) Notwithstanding any other law, local governments may require moneys generated or collected pursuant to any local law that bans free distribution of any type of carryout bag, and mandates the sale of any other type of carryout bag, to be deposited into the Environmental Protection and Enhancement Fund and used for the purposes set forth in Section 42272.

(b) For purposes of this section, "local law" means any ordinance, resolution, law, regulation, or other legal authority adopted, enacted, or implemented by any city, county, city and county, charter city, charter county, special district, school district, community college, or other local or regional governmental entity.

SEC. 5. Liberal Construction.

This act shall be liberally construed in order to effectuate its purposes.

SEC. 6. Conflicting Measures.

(a) In the event that this measure and another measure or measures relating to the use of moneys generated or collected by stores pursuant to laws that ban free distribution, and mandates the sale, of any or all types of carryout bags shall appear on the same statewide election ballot, the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by the voters but superseded in whole or in part by any other conflicting initiative approved by the voters at the same election, and such

conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 7. Severability.

The provisions of this act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this act. The people of the State of California hereby declare that they would have adopted this act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this act or application thereof would be subsequently declared invalid.

SEC. 8. Legal Defense.

If this act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of federal law, and both the Governor and Attorney General refuse to defend this act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 (commencing with Section 12500) of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

PROPOSITION 66

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Government Code and the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Short Title.

This Act shall be known and may be cited as the Death Penalty Reform and Savings Act of 2016.

SEC. 2. Findings and Declarations.

1. California's death penalty system is ineffective because of waste, delays, and inefficiencies. Fixing it will save California taxpayers millions of dollars every year. These wasted taxpayer dollars would be better used for crime prevention, education, and services for the elderly and disabled.

65

66