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California Proposition 65

California proposition 65 calls for a reform in the allocation of revenue from selling single-use carry-out bags in grocery and other retail stores. It is officially titled “Carry-Out Bags. Charges. Initiative Statute.” on the ballot. Under this proposition, the revenue generated from the sale of these single-use carry-out bags would go into a state fund headed by the Wildlife Conservation Board called the Environmental Enhancement and Protection Fund, or EEPF. This fund would be housed in the California Treasury and the WCB would use this fund for grants to other environmental conservation organizations or for environmental protection. They are allowed to use only up to 2% of this fund for administrative costs, and the organizations receiving grants may only use up to 5% for administrative costs.

A vote “yes” on this proposition means the voter is in favor of sending revenue created by the mandated sale of carry-out bags at grocery or retail stores to the fund managed by the Wildlife Conservation Board. A vote “no” on this proposition means the voter is against sending the revenue created by the mandated sale of carry-out bags at grocery or retail stores to the EEPF managed by the WCB. A legislative analyst estimates a net state and local government fiscal impact of several tens of thousands of dollars annually that would go toward environmental programs, but only if a statewide carry-out bag law is enacted. As it is, if prop 65 is passed on its own, there would be no statewide fiscal impact unless a statewide carry-out bag law was put in place in the future. However, there is a similar California proposition on the ballot, number 67, which would enact a statewide

carry-out bag law, but this prop allocates funds to the grocery or retail stores themselves to be used in specified ways. Thus, if prop 65 is passed and not prop 67, then there will be no statewide law mandating a charge on single-use carry-out bags. Local governments would have the option of mandating revenue generated from any local carry-out bag law to go to the EEPF. If proposition 65 is passed, as well as 67, and 65 receives more “yes” votes, then there will be a statewide carry-out bag law and the revenue generated will go to the EEPF. If proposition 65 is passed, as well as 67, and 67 receives more “yes” votes, then there will be a statewide carry-out bag law and the revenue would go towards grocery and retail stores to be used in specified ways. There has been some speculation on the exact wording of the proposition and whether or not a combining of the two if both are passed would be acceptable.

Proposition 65 is backed by the American Progressive Bag Alliance, APBA, which “leads numerous public policy initiatives that serve as the frontline defense against plastic bag bans and taxes nationwide” (APBA). The goal of this alliance in 2016 is to promote prop 65 and to discourage the passing of prop 67. They claim to be defending the plastic bag industry which employs “more than 24,600 American workers in more than 40 states” (APBA). If proposition 67 passes, it would create a ban on an important resource, as well as destroy jobs for many working Americans, according to the APBA. In a joint hearing on proposition 65 including the Senate Environmental Quality Committee and the Assembly Natural Resource Committee, it was decided that as it is, if passed proposition 65 it would remove any statewide law requiring single-use plastic carry out bags to be sold, thus greatly decreasing the effect 65 would have in sending revenue to the EEPF. This caused some concern in the idea that the proposition is just another attempt to repeal the statewide ban and mandated sale of single-use carry out bags.

Based on its wording and initial appearance to the public, proposition 65 will most likely pass. According to the Legislative Analyst's Office, "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". Members of counties and cities with local carryout bag laws already enacted will see prop 65 and think of it as a good act that would send money they already spend on single-use carry out bags to a fund that will purpose it towards the environment. However, if the judicial system does not find a way to combine both 65 and 67 if they are passed, and if proposition 65 passes by a greater margin, Californians may in fact find that their decision will not create a statewide bag law, or as great a revenue flow into the EEPF as originally intended.

In my opinion, I think prop 65 should pass although it has some drawbacks. If prop 65 can change its wording so that it includes the measures of prop 67, it will have a stronger positive impact for the environmental fund. As the Legislative Analyst's Office said, over 100 cities and counties in California already have single-use carry-out bag laws and bans. With the passing of both 65 and 67, these laws would become statewide and the impact of revenue collected for the EEPF would be much greater should the measure be combined. Even if prop 65 cannot be changed, its effects will still provide much needed support for environmental organizations.