Date of Hearing: May 3, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 891 (Irwin) – As Amended April 12, 2023

Policy Committee: Natural Resources Vote: 8 - 3

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill provides a reduction in processing fees as an incentive to transition towards increasing levels of nonpetroleum biomaterials in plastic beverage containers.

Specifically, this bill, among other things:

1) Requires, beginning January 1, 2025, a beverage manufacturer to receive a reduction in the processing fee imposed as part of the state's Beverage Container Recycling Program (Bottle Bill) if the beverage container is derived from both nonpetroleum biomaterials and subject to the California Redemption Value (CRV).

2) Specifies the amount of the processing fee reduction is equal to 10% of the processing fee applicable only to the certified percentage of the beverage container, by weight, that derives from nonpetroleum biomaterials, not to exceed 50% of the total beverage container weight, subject to third-party certification.

3) Requires the Department of Resources Recycling and Recovery (CalRecycle) to charge a fee to a beverage manufacturer who applies for a processing fee reduction sufficient to cover CalRecycle's reasonable implementation costs.

4) Codifies legislative intent that beverage manufacturers transition toward increasing levels of nonpetroleum biomaterials when producing recyclable plastic beverage containers subject to the CRV, as specified.

5) Authorizes beverage manufactures to report information regarding use of nonpetroleum biomaterials for plastic beverage containers in their annual recycled content reports.

FISCAL EFFECT:

1) CalRecycle estimates costs of approximately $2.9 million in fiscal year (FY) 2024-25 ($881,000 for six positions and $2 million in contracts) and approximately $2.8 million in FY 2025-26 and ongoing ($1.8 million for 12 positons and $1 million in contracts) (Beverage Container Recycling Fund (BCRF)) to implement this bill. Tasks include administering new processes to calculate and manage discounts and fees, managing new reporting requirements, and incorporating new technologies for beverage container material types.

2) Once every three years, starting in FY 2027-28, CalRecycle estimates an additional $1 million in contract funds (BCRF). According to CalRecycle, the addition of nonpetroleum

biomaterials to the Bottle Bill necessitates third-party certification to verify the percentage of a beverage container derived from these materials and to certify that the addition of these materials to the beverage container will not reduce the recyclability of the beverage container or require any changes to collection or processing. To set standards and validate third party certifications, CalRecycle would need to contract with an external party that can provide technical expertise with respect to nonpetroleum biomaterials. This contract will be ongoing, renewed every three years, to keep up with changes in the industry and advancements in technology.

This bill requires CalRecycle to charge a fee to a beverage manufacturer who applies for a processing fee reduction to cover the department's reasonable costs of implementation.

3) Reduced revenues of an unknown amount, likely in the high hundreds of thousands of dollars, to the BCRF as a result of the processing fee reduction proposed in this bill.

COMMENTS:

1) **Purpose.** According to the author:

> I introduced AB 891 with the intent to reduce fossil fuel based plastics and instead incentivize the use of recyclable non petroleum based plastics in plastic bottles. As joint author of AB 793 with Assemblymember Ting, I believe the time is right to work towards reducing fossil fuel based plastics and supporting the circular economy.

2) **Background.** While the conversation around plastic has generally focused on its end of life, plastic pollution starts with fossil fuel extraction, and continues through manufacturing, transportation, usage, and finally disposal. Plastic production is a significant driver of climate change. Hundreds of petrochemical facilities throughout the United States create the pellets used in the production of plastic products. The vast majority of plastic is synthesized from fossil fuels, including oil, coal, and natural gas. Concerns about plastic have contributed to the development of alternative types of plastics. These plastics are intended to, or claim to, address different environmental impacts associated with plastic production and use. These generally fall into two categories – biobased plastics and compostable or degradable plastics. For a detailed discussion about alternative plastics and some of the associated issues, see the Assembly Natural Resources Committee analysis of this bill. The author intends this bill to encourage beverage manufacturers to transition towards increasing levels of nonpetroleum biomaterials when producing recyclable plastic beverages subject to the Bottle Bill and begin to transition the state away from fossil-fuel based virgin plastic. The use of the biomaterials authorized by this bill might reduce the greenhouse gas emissions and other pollutants associated with the production of virgin plastic.

Bottle Bill. The Bottle Bill was established in 1986 to be a self-funded program to prevent littering and achieve an 80% recycling rate for eligible containers. The program requires consumers to pay a deposit for each eligible container purchased. The program then guarantees consumers repayment of that deposit, known as the CRV, for each eligible container returned to a certified recycler.

Processing Payments and Processing Fees. As detailed in the Assembly Natural Resources Committee analysis of this bill, the largest challenge facing the Bottle Bill is the closure of more than 1,000 recycling centers, leaving many Californians without redemption opportunities. While a number of factors have contributed to the closures, one of the challenges facing recycling centers is the volatile nature of the per-container "processing payments" made to recycling centers. For many material types, the cost of recycling containers is greater than the value of the recycled material, which is referred to as the "scrap value." This means that, absent some additional financial support, accepting these containers from consumers and recycling them would be unprofitable for recyclers and processors. In order to close that gap, the state subsidizes recycling by making processing payments from the BCRF to recyclers and processors.

The cost to the BCRF of making processing payments is partially covered by the beverage manufacturers who produce these containers when they pay "processing fees" into the BCRF. While processing fees were established to cover the full cost of making processing payments, over time, the Legislature has reduced the processing payment by creating "processing fee offsets." Since 2003, CalRecycle has determined the amount of processing fee offsets on a sliding scale based on recycling rates (the amount of material collected for recycling, not the amount of material actually being recycled into new containers). As recycling rates for specific materials increase, beverage manufacturers that produce containers from those materials pay proportionally less in processing fees. The difference is funded by the BCRF. For example, in FY 2020-21, total processing fees were over $155 million, but, after processing fee offsets, beverage container manufacturers paid just over $30 million. The same year, processing payments made to recyclers were just over $153 million.

While this bill provides an incentive to producers who use nonpetroleum biomaterial for the production of virgin plastic bottles, the incentive is an additional reduction in the amount of processing fees paid by beverage manufacturers. This additional reduction will require the BCRF to cover the costs of the further-reduced processing fees.

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