

Next California plastic bag initiative is tricky strategy by out-of-state interests

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Christopher McCrary bags groceries at the Lucky supermarket in San Ramon, Calif., on Friday, Oct. 30, 2015. Plastic bag manufacturers, who are trying to repeal California's landmark plastic bag ban, have now filed another initiative on the same topic. This battle over plastic bags is becoming one of the state's most costly and high-profile recycling battles. (Dan Honda/Bay Area News Group) (Dan Honda)

SACRAMENTO -- Next year's election is still more than a year away, but the battle over California's landmark ban of single-use plastic bags is already shaping up to be the most costly, high-profile fight over litter and recycling the state has seen in three decades.

Out-of-state bag makers leading the campaign to repeal a 2014 law banning their product spent \$3 million on signature gathering alone -- and in a surprise move recently filed another initiative on the same topic, a highly unusual strategy that appears to be the political equivalent of a trick play in football.

A customer wheels out their groceries at the Lucky supermarket in San Ramon, Calif., on Friday, Oct. 30, 2015. Plastic bag manufacturers, who are trying to repeal California's landmark plastic bag ban, have now filed another initiative on the same topic. This battle over plastic bags is becoming one of the state's most costly and high-profile recycling battles. (Dan Honda/Bay Area News Group) (Dan Honda)



If voters validate the law next year, grocers will begin encouraging customers to use reusable bags by charging them at least 10 cents for every paper or thicker plastic bag they take at checkout. The new measure -- expected to easily qualify for the ballot because bag makers can afford to pay signature gatherers -- would force grocers to deposit those fees into an account for environmental improvement projects.

More money for drought mitigation, wetlands restoration and beach cleanup surely sounds appealing, but don't be fooled, initiative experts say. Bag makers are promoting the Environmental Fee Protection Act in this business-versus-business fight to make Californians' heads spin and perhaps entice grocers to spend money fighting the measure rather than opposing the referendum -- not to help the environment, experts say.

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"Voters faced with too many choices get confused, and confused voters tend to vote no on everything," said John Matsusaka, executive director of the Initiative and Referendum Institute at the University of Southern California. "In this case, that's exactly what the proponents of the referendum want."

Grocers and environmental activists were on opposite sides of the epic fight in the 1980s to pass California's "bottle bill," which reduces litter and encourages recycling by requiring deposits on beverage containers. But they worked together last year to get Senate Bill 270 signed into law after a dozen failed attempts to pass similar legislation.

Frustrated by the patchwork of local bag bans that already cover a third of the state's population, grocers supported the legislation because it creates a uniform statewide policy on carryout bags. Environmentalists liked it because it promises to wipe out a noxious form of litter that kills marine life.

But plastic bag makers, who stand to lose as much as \$150 million annually in sales of their product to California retailers, refused to back down. They accused environmental advocates of exaggerating the harm done by plastic bags and called grocers greedy because they would pocket the 10-cent fees, even though the savings for grocers could be passed onto consumers.

The new law never took effect after the bag makers paid signature gatherers to put the issue on the ballot. Regardless of the outcome, the referendum has no impact on local ordinances.

Members of the American Progressive Bag Alliance -- a coalition of bag manufacturers led by South Carolina-based industry giant Hilex Poly -- declined to answer this newspaper's questions about the group's strategy or the impact the new initiative might have on the referendum campaign.

In a statement released last month, the group's executive director, Lee Califf, said the alliance is proud to



Filing an initiative whose topic matches one that's already on the ballot is a classic strategy that is often used to create confusion. In recent years, voters have been asked to navigate competing income-tax measures (Propositions 30 and 38 in 2012) and competing redistricting measures (Propositions 20 and 27 in 2010).

What's so unusual about the bag makers' strategy is their commitment to support both the referendum campaign and a counter "poison pill" proposal that would take effect only if the referendum fails. Matsusaka said he's never seen anything like it before.

Environmental activists trying to protect the bag ban say they're dismayed.

"Bag makers are trying to goad retailers who support the bag ban into spending money against this initiative," said Mark Murray, executive director of Californians Against Waste. "I was shocked by the audacity of this cynical, political move."

The California Grocers Association insists that it backed SB270 to establish a uniform statewide bag policy, regardless of potential cost or revenue, said Dave Heylen, a spokesman for the group. And while the group hasn't yet taken a position on the initiative, the grocers remain supportive of the bag ban, he added.

Bag makers' insistence that the ban is a "cash grab" for grocers who supported the legislation because of the bag fees is a fallacy, said Murray, whose group also led the campaign for the bottle bill.

If the contested legislation takes effect, retailers that operate in cities not already covered by local bag bans will save \$150 million annually on the plastic grocery bags they no longer need to purchase and distribute to customers for free, U.S. Environmental Protection Agency data shows. The allure of those savings is a bigger draw than having the \$40 million grocers spend annually on paper bags covered in part by customer fees, Murray said.

Despite the likelihood that they'll be badly outspent by the American Progressive Bag Alliance -- likely by tens of millions of dollars -- environmental advocates are confident they'll prevail in the Battle of the Bags.

"Bag makers will spend big to try to buy this election, but in the end common sense will override this polluting industry's vast expenditures," said Kathryn Phillips, executive director of Sierra Club California. "The logic is simple. Californians aren't going to let an out-of-state interest harm their environment."