

Why California City Councils Must Not Pass Bag Bans with a Statewide Vote Pending

Local jurisdictions abuse their power; violate the public trust; and waste time and resources in considering or passing local bag bans with a statewide vote pending.

There is no justifiable or demonstrable crisis that supports a pre-emptive local bag ban ahead of the November 2016 referendum.

Local city councils who implement a bag ban are being used as willing pawns by bag ban pushers and big grocers trying to influence the outcome of the statewide vote scheduled for November, 2016.

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Introduction

The implementation of plastic bag bans (and paper bag fees) in California has been promoted and pushed by well-organized and well-funded special interest groups working through local politicians, ultimately enacting over 100 local ordinances and subjecting about 33% of the state's population to bag bans. (White, 2014)

Eventually, after years of failed attempts to pass a statewide bag ban, these organizations were able to leverage local bag bans along with some arm twisting until the California legislature succumbed and passed a statewide bag ban. (Williams & van Leeuwen, 2015) However, when the statewide bag ban was signed into law by Governor Brown, the American Progressive Bag Alliance (APBA) successfully challenged the law through a referendum by collecting 809,810 signatures of registered California voters (with 598,684 validated signatures, which was 93,924 over and above the quantity needed). This means the statewide law will be on hold until it can be approved or rejected by the people of California in the November, 2016 statewide election. (Fight The Plastic Bag Ban, 2015)

The key strategy of bag banners was to avoid public votes, and concentrate their efforts on convincing simple majorities within the more liberal city councils to jump on the bandwagon.

So, incredibly, November 2016 will be the first time that a single citizen of California will be allowed to vote on the government-imposed bag ban that has already been forced on about 33% of the population by local public officials and was about to be enacted on the entire population of California by the state legislature and the governor. With a statewide vote on the issue now scheduled, one would think that local bag bans would no longer be considered until the voters have spoken.

But, unfortunately, that is NOT the case. Bag banners have embarked on a devious plan: To get as many local cities and towns, as possible, to pass bag bans before the 2016 statewide election. In fact, they

have publicly stated that their goal is to get 50% of all Californians to live under a local bag ban before the first Californian ever has a chance to cast a single vote. (Mason, 2015)

These facts raise a serious question for local governments that are considering bag bans pending the statewide vote on the issue: *Is it ethical or justifiable to impose a bag ban when their citizens are slated to vote on the matter in the next statewide election and the issue will be settled at the state level?*

This paper will concentrate on examining six of the most troubling issues associated with city councils that consider or implement a bag ban when a statewide vote is already scheduled on the matter.

1. Imposing a local ban ahead of a statewide vote nullifies the voice of the local citizen

To impose a law through a simple city council majority when there is an impending vote on that same law is an affront to our democratic process. In effect, the city council is basically stating this:

Even though our citizens will be participating in a vote already scheduled in the next election on this very issue, we are going to go ahead and impose the law onto the people of our city now, and do not care to wait and see how our citizens will vote.

The audacity and arrogance of this position is not only overwhelming but alarming, and citizens should be shocked by this attitude. This is city council activism and partisan politics at its worst. At the least, if the city council felt it was a “dire emergency,” then they should schedule their own local vote on the issue before they potentially override what will soon be a known opinion of their citizens.

In addition, any action by the city council prior to the statewide vote nullifies the *effect* of the individual’s vote, changing the meaning and nature of his or her vote in November 2016. Consider a citizen who opposes the bag ban, and believes they should be able to continue to decide what kind of a bag to use at the store. They are looking forward to the November 2016 vote to voice their opinion and stop this law from impacting their lives. However, if the city steps in and imposes a local bag ban on that voter anyway, and then what is that citizen voting on in November 2016? Only if others should be under the same bag ban as they are! They are no longer voting on how a law will affect them personally, only how it will affect others. ***This fundamentally changes the nature and the impact of the vote.***

Consider also this further travesty: Citizens of that city may very well have signed the state referendum demanding it be put to a vote of the people! So what is the city council saying to the people in their city who successfully demanded the issue be put to a vote of the people? They are basically saying that they don’t care what they demanded; they are going to get a bag ban anyway!

In effect, the city is nullifying the personal impact of the vote of their citizens and ignoring the call of the citizens for a vote, which is a direct manipulation of our democratic process.

2. City Councils who impose a local ban now can only justify it by a pre-conceived outcome of the November 2016 referendum

Votes on state initiatives can be measured at the local level, as indicated by election results available after each election. Thus, there are 4 possible outcomes to the November 2016 referendum with various meanings at the local level:

- a. **The statewide bag ban passes, but the people of the city opposed it.**
Too bad, the local citizens are stuck with it because it is a statewide bag ban.
- b. **The statewide bag ban passes, and the people of the city supported it.**
No local action needed, as the people of the city agreed with the state and, better yet, it is being handled at the state level so no local laws or efforts are needed.
- c. **The statewide bag ban fails, and the people of the city opposed it.**
A local bag ban should not be implemented as the citizens agreed with the people of California that bag bans should be rejected.
- d. **The statewide bag ban fails, but the people of the city voted for it.**
This situation actually has two possible meanings:
 - The people want a bag ban, but *only* if the entire state has one.
 - The people want a bag ban, *even if* the entire state does not have one.Thus, the city council should revisit the issue to determine if further action is needed. It is logical that this could only be resolved through a ballot measure at the local level, rather than just listening to which side yells the loudest at city council meetings.

Note that, by passing a bag ban now, the city council is taking action *assuming* only outcome “d” and that the people of the city want a bag ban even though people in the rest of the state will not have one. All other possibilities require no action by the local city council.

And just how would a city council be able to determine this desire without a local vote? They cannot! Typically, they just listen to whomever they want to hear and then assume a vast majority has that same opinion. In the Los Gatos city council meetings on this topic, 2/3 of the people who showed up at the public forums, wrote emails, and called the city office were opposed to a bag ban, yet a council member stated he was voting FOR a bag ban because he was voting for “all the people, and not just a few” even though he had absolutely no evidence that “all the people” felt any differently than the ones who spoke up! That was just one of the cities where a bag ban was imposed without a single citizen casting a vote, or even a simple poll being conducted that showed public support for a bag ban.

City councils cannot assume only one possible outcome without hard evidence. And, unless that evidence is certain (such as a local vote or unbiased poll of a substantial percent of the population), then they must wait for the outcome of the November 2016 election to decide on the next step.

3. Local city councils cannot justify pre-emptive bag bans with any impending crisis

One reason a city council could try to justify a local bag ban ahead of the statewide vote is if they could demonstrate a dire local emergency or crisis that warrants immediate action without waiting for a vote of the citizens. It must be dire because it would suppress citizens' rights, waste local taxpayer's money, and meddle in coercing the outcome of the state vote, which must not be taken lightly.

Yet, no such emergency can be shown. In reality, no such emergency has ever been shown for any bag ban implemented in the state of California by any local jurisdiction. In fact, in an article titled "[San Jose's Bag Ban Useless in Solving Litter Problems – Should be Rescinded](#)" the author shows that San Jose's plastic bag ban never solved serious litter problems affecting the environment. In a companion article titled "[San Jose Litter Surveys Examined: Plastic Bag Ban Completely Unjustified!](#)" the authors show that San Jose's own litter surveys reveal the plastic bag litter problem to be a miniscule issue and easily handled by traditional litter cleanup methods and that the time and money wasted by the citizens was grossly out of proportion to any minor reduction in litter observed.

In the vast majority of the cities with bag bans, the cities made no efforts at even attempting to demonstrate that they actually had a bag issue that needed to be solved. When we spoke with the public before local city councils, we often asked them to simply show everyone or point out where their city had such a crisis that warranted all the work and costs of a bag ban, the destruction of the free market rights of businesses, and the inconvenience to and anger of many of their citizens. We were consistently met with blank looks, and our question was never answered by any city council member! They proceeded to imaginatively portray thousands of plastic bags wafting through the air, getting stuck in storm drains and gutters, and being choked on by (non-existent) local turtles. But never was any direct evidence of any crisis presented. In fact, the same arguments could have been made about any piece of trash, if all you have to do is paint an imaginary picture!

In 2013, I (Don Williams) went to one of the bay area cities to meet with a mayor whose city council had passed a bag ban, but it had not yet been enacted. As I drove down their main street to meet him, I carefully scanned everywhere looking for any sign of even a single plastic grocery bag. I found none. When we met, our conversation went like this:

Don: "Congratulations! Your bag ban is working great, because I didn't see a single bag in your city while I drove through!"

Mayor: "But our bag ban doesn't start until November. "

Don: "My point exactly!"

This was the same situation in every city that passed a bag ban. No "crisis" was ever observed or demonstrated, but only the fact that a few of these plastic bags were found as part of the litter cleanup.

Thus, unless the city can demonstrate a real dire plastic bag emergency (which they cannot), and they have exhausted all other methods to address the emergency (such as additional cleanup, enforcing of existing laws, etc.), they have no basis to pre-emptively impose a bag ban on their citizens ahead of the vote of their citizens on that very same issue.

4. Local city councils are being used as pawns by the bag ban zealots

If a statewide vote is already scheduled, and the city cannot show an immediate plastic bag crisis, then what is the big hurry to pass a local bag ban?

In essence, they are looking to manipulate the outcome of the state vote.

Consider that there are basically 3 types of voters:

- a) Those who feel the bag ban is wrong, and no one should be subject to a bag ban.
- b) Those who do not necessarily agree with the bag ban, but if they have to be subject to it, then everyone else should be also
- c) Those who feel the bag ban is right, and everyone should be subject to the bag ban.

You can see that if there is no local bag ban, then groups “a” and “b” will vote AGAINST a statewide ban, and group “c” will vote FOR a statewide ban. But if there is a local bag ban, then only group “a” will vote AGAINST a statewide ban, and groups “b” and “c” will vote FOR a statewide ban.

Polls support this concept. A USC/L.A. Times poll in November 2014 show this difference to be 17 percent. In other words, people are 17 percent more likely to vote to impose bag bans on everyone if they have to be under a bag ban themselves. (Balassone, 2014)

It is obvious here what bag ban zealots are trying to do. They are pressuring local city councils to sacrifice the free choice of their citizens and impose a bag ban so that they can get more “yes” votes on the statewide ban. Plus, as a bonus, they can chalk up one more city that will live under their bag ban even if the people of the state vote the statewide bag ban down.

They also know that the November 2016 vote could essentially shut down further bag bans if the statewide ban fails to pass, because the local cities will now know and see that the majority of the people oppose bag bans

Any city council passing a bag ban prior to the November 2016 referendum is only doing so for one of two reasons:

- They are unaware that they are being used as pawns by the bag ban zealots, and have not thought through the implications of their ban as outlined in this paper.
- They are activists themselves, and *willingly* imposing bag bans on their people ahead of the referendum in order to influence the outcome of the state referendum, and to make the bag ban law before their people get the chance to vote.

Why would a city council turn against its own citizens in this manner, and be willingly used as pawns for someone else’s purposes? And why would the people of that city allow their city councils to do this, or remain in power after they do it? Some cities do not, as evidenced by what recently occurred in Huntington Beach where bag ban opponents worked to replace enough city council members to get the bag ban repealed in their city. They reigned in an activist council. (Fight The Plastic Bag Ban, 2015)

5. Cities should actually be halting, or even repealing, bag bans due to the California drought

Here is a little-discussed fact about reusable bags: They waste a tremendous amount of water. If you read the government guidelines for reusable bag use, they tell you to inspect them after each use, wash them regularly (even if they don't look dirty), and wash bags that were used to carry raw meat after every use. All of this inspecting, cleaning, and washing wastes not only time but water.

Bag banners claim that every person uses 500 plastic thin-film bags per year. Assuming these 500 bags are replaced with 500 uses of reusable bags, we can estimate the number of gallons needed to sustain reusable bags per person as follows:

- 20% (100 uses) with meat or fish: Wash every time (100 washes)
- 20% (100 uses) with some other substance that soiled the bag: Wash every time (100 washes)
- 60% (300 uses) for dry goods or unseen leakage: Wash every third time (100 washes)

Thus, an average person should be washing their reusable bags about 300 times per year, if they comply with the government guidelines.

Old-fashioned washing machines use about 40 – 45 gallons per wash. High efficiency washing machines use 15 – 25 gallons per wash. Let's assume an average of about 30 gallons per wash. And let's be generous, and assume you could get 30 reusable bags into a single load. That means about 1 gallon of water per bag for washing, plus any cost of drying. (Bag banners will claim that you can just add your reusable bags to your laundry, but that is a false argument because they displace other laundry you could have added to the load.)

Thus, the average person would use 300 gallons of water per year washing their reusable bags. This equates to about 1,200 gallons (about 40 loads per year) per family of 4. Multiply that times the number of people in a city or county and it turns into millions of gallons of water that is wasted!

Isn't it ironic that, in the midst of a drought, cities and the state are imposing water reduction measures, such as brown lawns and not flushing toilets every time, while they also implement water wasting policies by coercing their people into using reusable bags. They should be doing just the opposite, and [mandating plastic bags to save water!](#)

6. Local cities waste time, resources, and money by passing bag bans now

This issue is about to be settled at the state level, which affects everyone in the state. So why would a city council do all the time, work, discussion, and cost to implement a bag ban now rather than wait a few months? There is no justifiable reason.

If the statewide bag ban is upheld by the people, then their businesses and citizens will be under the statewide ban. No additional cost, action, or laws are needed at the local level.

If the statewide bag ban is rejected by the people, then it has impact and meaning that should be considered at the local level. It means that the people of California do not want a bag ban, and that

other surrounding cities will not likely have a bag ban. If a city council still feels it is such a dire issue, and the evidence shows that the local people support a bag ban, THEN the city council should consider a local ballot measure to implement a local ban to discover if the people of the city really still want a local bag ban.

Also, consider that if a city passes a local bag ban, it will remain in effect even though the statewide ban is also implemented. The statewide ban does not negate local bans, it only supplements local bag bans. In other words, it will still be up to the local city to manage, enforce, and update their local ordinance. They may even decide to repeal their local ordinance after the statewide vote, meaning more time and energy must be spent. Why would a city set themselves up for such a useless waste of time and money?

And, the statewide bag ban seems to indicate that any local bans passed after September 2014 will not be in effect. This would then throw a local bag ban into question.

Further consider this: Local jurisdictions passing bag bans now are claiming that the public wants a bag ban, and that they are doing so in the best interest of their citizens. Under that assumption, the statewide bag ban WOULD pass, which means the local city councils are purposely wasting time and resources on a local bag ban that they claim will pass anyway! This circular logic doesn't make sense.

Or consider this other possibility: The local city councils are claiming that bag bans are wanted by the people, and are so convinced that they will pass the bag ban on the citizens ahead of any of their citizens casting a vote on the matter. So what happens if the statewide bag ban fails? And what happens if a majority of their citizens voted against a statewide bag ban? Will the city council then stand in front of the people with egg on their faces and apologize and repeal the bag ban?

By passing a bag ban now, the city council is either wasting time and money on a bag ban that will be implemented by the state anyway, or pre-emptively deciding that their people want a bag ban even if the statewide bag ban fails. Either way, the city council should wait until AFTER the statewide referendum to decide. It makes no reasonable sense to make a decision now, when a critical outcome is pending at the state level that affects the local decision and negates the need for local time, energy, and money on this issue.

Conclusion

This paper has exposed several key problems with local bag bans being considered or passed prior to the November 2016 election:

- There are political, democratic, and moral issues with imposing a local law ahead of an already scheduled statewide vote by the citizens.
- City councils are either pawns or active participants in deceptive and fraudulent manipulation of the voting power of their people and the state.
- Local bag bans needlessly waste time, money, and water when city governments are supposed to be doing their best to save these very items.

There are many other [papers](#) that examine bag bans and expose them as unnecessary, falsely supported, lacking hard evidence, costing families hundreds of dollars per year in wasted time and money, transferring millions of dollars to big grocers, and actually being worse for the environment rather than better. These papers expose the bag ban for what it really is: a senseless feel-good nanny-state law to control the behavior of citizens by mandating what kind of shopping bag they are allowed to use and how much they are required to pay for a previously “free” bag if they do not comply with the “green” and “sustainable” lifestyle choice that bag banners promote. (Williams & van Leeuwen, 2015)

We have always advocated for a public vote on this issue. Votes have been taken in cities in other states, and the vast majority of those have stopped or overturned a bag ban. We hope the people of California, like those in other states, are sensible enough to see through this and vote down the bag ban.

Unfortunately, the bag banners know the power of the people. Thus, they stop at nothing to by-pass or pre-empt a vote of the people. The bag banners and supportive media cried out when they saw over 800,000 citizens sign a petition to force the statewide bag ban to a vote of the people, calling it corrupt or “bought” by “evil big plastic” while ignoring the fact that it was 800,000 of their own citizens who signed a petition asking for a public vote, none of whom were paid. And in the biggest irony yet, while they call the very opportunity of the people of California to vote “corrupt”, they work to circumvent the outcome of the vote through coercion at the local city council level!

Any city council who ignores the facts and rushes to pass a bag ban prior to the November 2016 vote is rushing to do so because they suspect the people do not want a bag ban and want to impose the law ahead of the public vote, or they are purposely manipulating the statewide election by sacrificing the voice and will of their own citizens.

Both of these reasons are despicable. Council members should be ashamed, and the people should be outraged by activist actions that waste money and impose laws against the due process of the people.

Furthermore, an alternative to a local bag ban is already available: Just make a case for using reusable bags to the people and allow them to make their own choice! If the people really want a bag ban, then they will *voluntarily* stop using plastic bags and no local law is needed. In essence, a bag ban is just forcing people, through coercion, to do something that they could already do on their own.

Thus, there is no justifiable reason for local bag bans now, and furthermore there are many negative consequences and implications of local bag bans being passed prior to the citizen’s right to a vote on the issue, as has been demanded by the people of California.

The people have demanded a vote. Are the local city councils listening?

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