

THE BEVERAGE CONTAINER RECYCLING PROGRAM: PROGRAM OVERVIEW

The Beverage Container Recycling Program administers the California Beverage Container Recycling and Litter Reduction Act. Beverage containers covered under the act are subject to California Redemption Value (CRV), which is 5 cents for containers less than 24 ounces, 10 cents for containers 24 ounces or larger. Thanks to the CRV cash incentive, more than 200 billion aluminum, glass, and plastic beverage containers have been recycled since the program began in 1987.

According to its May 10, 2010 report, the Department of Resources Recycling and Recovery (department) indicates that the overall recycling rate for calendar year 2009 was 82 percent, an increase of 8 percentage points over the 74 percent recorded for calendar year 2008.

California is one of ten states with a bottle bill. Beverage containers were targeted for recycling because of their visible contribution to litter and because of major changes in the distribution system.

Administered by the department, the Beverage Container Recycling Program (beverage program) is intended to encourage and increase consumer recycling of aluminum, glass, plastic, and bimetal beverage containers sold in California that contain certain beverages.

For every beverage container sold or offered for sale, beverage distributors make a redemption payment to the department's Beverage Container Recycling Fund (beverage fund). The cost of the redemption payment is passed on to consumers when they purchase beverages and to encourage recycling, consumers can return used containers to recycling centers and receive a refund value.

The department has an auditing system to ensure the redemption payments and refund values paid comply with state law, and it investigates recyclers that collect used containers from consumers to ensure that they do not commit fraud when claiming reimbursements from the beverage fund.

The authorizing legislation has five distinctive elements:

- First, it sets a redemption value on all beer/malt beverages, wine and distilled spirit coolers, coffee/tea beverages, vegetable juice in containers 16 ounces or fewer, carbonated and noncarbonated water, carbonated and noncarbonated fruit drinks, carbonated and noncarbonated soft drinks and sports drinks and many other beverages in aluminum, glass, plastic and bi-metal containers.
- Second, it sets processing fees, which are paid to recyclers to cover their cost of recycling.

- Third, it establishes a network of convenience zone recycling centers within a half mile of grocery stores. There are currently more than 3,400 convenience zones in the state, and approximately 2,000 recycling/redemption centers for consumers.
- Fourth, it by law directs unredeemed funds toward supporting the Community Conservation Corps and toward grants and payments to private and public organizations for recycling-related projects. These funds also help container manufacturers reduce costs and save jobs, and have helped communities finance curbside recycling programs.
- Fifth, in order to pay CRV to consumers, recyclers must be certified by the department, and must accept all beverage containers covered in the program.

The beverage program is divided into several branches, with duties including public education and outreach, enforcement of program rules and regulations, and oversight of businesses engaged in making, selling and recycling beverage containers.

**THE BEVERAGE CONTAINER RECYCLING PROGRAM:
FORECASTING & MANAGEMENT ISSUES**

Budget Forecasting

In January 2010, the Joint Legislative Audit Committee requested that the Bureau of State Audits (State Auditor) conduct a financial audit of the Beverage Container Recycling Fund (beverage fund). The requestors cited large fluctuations in beverage fund balance projections from year to year, and within fiscal years.¹

The State Auditor's June 2010 audit report of the Beverage Container Recycling Program (beverage program) compared the program's revenue forecasts to actual revenues, and found that forecasts overstated revenues in four of the past five years. The report states that "over the past five fiscal years, the department's forecasting model has produced results that differ by between 3 percent and 15 percent from the actual revenues and expenditures."

The State Auditor noted that the lack of accuracy in beverage fund forecasts limited the value of the information for budgeting purposes. "For example, the department's errors in forecasting the condition of the beverage fund resulted in a \$158.1 million overstatement of the projected fund balance in the 2009–2010 Governor's Budget, which was used to make budgeting decisions for the department."

The Auditor indicated that when beverage program staff identified errors in forecasts, there were delays in reporting within the department to executive management, which resulted in the department providing incorrect information to the Legislature. The Department of Finance and the Legislative budget committees used the department's inaccurate forecasts in developing the State Budget. The beverage fund has historically projected end-of-year surpluses and therefore has served as a source of loans to the State General Fund and to the Air Pollution Control Account in fiscal years 2002-2003, 2003-2004, and 2009-2010.²

In recent years, the unforeseen shortfalls in the beverage fund have resulted in the suspension of grants and reduction of payments to recyclers of 50% to 85%. The State Auditor found that the beverage program "incorrectly calculated a reduction in payments to recyclers and others due to an error in computing its reserve for the projected fund balance in its May 2009 forecast."

In testimony before the Senate Budget Committee in April 2009, the Department of Conservation (which was responsible for the beverage fund until January 2010) stated that the suspension of payments to recyclers and grantees was not due to fund insolvency. The Department of Conservation stated that it suspended these payments in response to a

¹ Source: Letter from Senator Wolk and Assembly Member Skinner to JLAC, January 8, 2010

² Source: Legislative Analyst's Office, BCRP: Governor's Special Session Proposals, January 21, 2010

request from the Department of Finance to put programs on hold to protect the State's cash balances.³

According to the audit report, beverage program managers acknowledge that its current forecasting model is outdated and prone to produce inaccurate results. Specifically, the beverage program uses the following methodology:

The department uses a “month over month” forecasting model that projects the monthly figures for the number of containers sold and the weight of the containers recycled. Each month’s figure is projected by calculating the percentage of change between the same months in the two prior years and applying that percentage to increase or decrease the prior year’s figure and create the projected figure. The two months used for the projection can be a combination of actual data and projected data, depending on the information available at the time the forecasting is done.⁴

One result of this methodology, was that the Governor's 2009-10 budget contained expenditure projections in which only one month's forecast was based on actual data, while the other 11 months were based at least in part on prior-year forecasts.

Distributor Audits

The Beverage Container Recycling Fund relies on revenue from beverage distributors. Beverage distributors self-report the redemption payments they owe on their sales of beverage containers, therefore, the department audits distributors to ensure that they are not underpaying. The State Auditor found that the beverage program has a plan to audit the top 100 beverage distributors every three years, but it does not consistently adhere to that plan.

The State Auditor found that the beverage program:

- Does not consistently audit all distributors as planned in its current audit cycle—it still had either not completed or not started 12 audits of its top 100 beverage distributors or 67 of the 309 mid-sized and other at-risk distributors.
- Did not always audit beverage distributors with identified underpayments stemming from prior audits. One distributor (the fifth largest in the State) had an identified underpayment of \$285,000 arising from an audit completed in 2005-06, yet it was among the 12 audits that had not been completed.
- Takes too long to complete its audits and bill for underpayments identified. For the 11 audits we examined, the department took between 129 days and 854 days to complete the audit and as many as 24 days to collect from a distributor for and identified underpayment.

³ Source: Senate Committee on Budget, transcript of April 2, 2009 hearing

⁴ State Auditor's Report on Department of Resources Recycling and Recovery, June 2010.

- Did not collect up to \$755,000 on three instances because it exceeded its two-year statute of limitations on collecting underpayments.⁵

Fraud Investigations

Another function of the beverage program is to investigate recyclers that collect used containers from consumers to ensure that they do not commit fraud when claiming reimbursements from the beverage fund. There are 2,300 certified recyclers in California. Some examples of fraud include:

- Recycling beverage containers that have already been recycled.
- Improper record-keeping practices at recycling centers.
- Recycling beverage containers that came from outside of California for which no redemption payment was made to the Beverage Container Recycling Fund.
- Recycling beverage containers that were never filled with a qualifying beverage.⁶

The beverage program receives leads on potential fraud through its fraud tip line. Staff track investigations, but they do not log all fraud leads. There is no system to record fraud leads that *do not* result in investigations or the rationale for closing such cases. The report indicates that the program does not maintain a log of anomalies referred to the investigations unit, but program staff indicated that they have initiated or completed 18 cases based on these referrals since 2005. The State Auditor also found that the beverage program does not have consistent guidelines to indicate what constitutes an anomaly triggering an investigation.

Program staff indicated that they are in the process of implementing new software to resolve the issues in their fraud investigation unit. Although implementation of the Division of Recycling Integrated Information System (DORIIS) is scheduled to begin in July 2010, the new system will not integrate all necessary functions until six months to one year later.

Grant Monitoring

In fiscal year 2008-09, beverage program grants totaled \$67.5 million. The State Auditor found that the beverage program often failed to conduct important monitoring activities. Specifically, staff often did not conduct initial site visits and closing site visits. These visits are used to confirm the information in a grant application and subsequent status reports. The State Auditor noted that "for six completed market development and expansion grants we reviewed, the department did not ensure that grantees met their commitments—ultimately costing the State nearly \$2.2 million."

⁵ Source: BSA Fact Sheet

⁶ Source: CalRecycle

Although the program has grant management policies in place, it does not consistently apply its policies. As a result, the beverage program does not collect the information necessary to ensure that grantees use funds appropriately.

Revenue, Expenditures, and Loans From the Beverage Container Recycling Fund					
Fiscal Years 2004–05 Through 2008–09 (In Millions)					
	2004-05	2005-06	2006-07	2007-08	2008-09
Beginning Fund Balance	\$ 73.0	\$ 196.0	\$ 308.5	\$ 292.8	\$ 306.6
Revenue	926.1	911.5	975.1	1,189.6	1,194.3
Expenditures					
Administrative costs	(29.7)	(31.5)	(41.6)	(48.2)	(46.4)
California refund value paid	(585.2)	(601.2)	(753.6)	(905.6)	(1,005.4)
Processing fees	(114.7)	(58.0)	(97.5)	(65.9)	(88.3)
Handling fees	(26.5)	(33.1)	(31.2)	(30.5)	(47.3)
Grants	(37.8)	(39.1)	(35.1)	(70.8)	(67.5)
Others	(9.1)	(36.1)	(31.8)	(54.8)	(51.7)
Total expenditures	(803.0)	(799.0)	(990.8)	(1,175.8)	(1,306.6)
Net receipts (expenditures)	\$123.1	\$112.5	(\$15.7)	\$13.8	(\$112.3)
Loans					
Department of Conservation's general fund	(1.3)	-	(3.6)	(1.8)	(2.0)
State's General Fund	-	-	-	-	-
Bosco-Keene Fund	(0.3)	-	-	-	-
Soil Conservation Fund	(2.3)	-	-	-	-
Air Pollution Control Fund	-	-	-	-	(32.0)
Transfers in	\$3.8	-	\$3.6	\$1.8	-
Ending fund balance	\$196.0	\$308.5	\$292.8	\$306.6	\$160.3
Source: State Auditor					