

If California won't enact a plastic waste overhaul, will anyone?

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A woman places a plastic bottle into a plastic container at a recycling center in Sacramento, Calif. | AP Photo/Rich Pedroncelli

SAN FRANCISCO — The plastic waste revolution died in the California Legislature this year.

Environmentalists have pinned their hopes on the nation's most populous state ever since China rejected American recyclables two years ago, literally dropping the problem on the public's doorstep by forcing cities to raise garbage fees and ban more plastics from recycling bins.

California's working solution: Transform the entire recycling chain by cracking down on America's love affair with single-use plastic materials that have reliably contained meals, snacks and beverages for decades.

Such legislation would seem a slam dunk in California, where Democrats have unprecedented supermajority control of the Legislature and have long made the state a national leader on recycling and climate change. But intense lobbying from container manufacturers, retailers and the plastics industry — coupled with legislative mismanagement — doomed the proposal for the second straight year.

If California can't solve plastic waste, who can?

"It is the most disappointing result from the entire session for the past two years that that bill didn't get through a Democratic supermajority in California," said Assemblymember Laura Friedman (D-Glendale), a coauthor and chair of the Assembly Natural Resources Committee. "We are not showing any kind of leadership to the rest of the country."

Most plastics, including cups, clamshell containers and coffee pods, aren't accepted by most recycling facilities due to the high cost of processing. As a result, the vast majority of California's — and the nation's — plastic waste is put into landfills or burned. Only about 5 percent of plastics are recycled nationwide and much of that is still processed overseas, according to U.S. EPA data compiled by the nonprofit Last Beach Cleanup, which analyzes global waste and recycling patterns.

After negotiating this summer, proponents agreed to focus on plastics and remove targets for aluminum and glass from their legislation. Two identical bills, one in each house, served as vehicles for the idea, theoretically doubling the opportunities to send it to Gov. Gavin Newsom during a frenetic end of session.

Their passage would have been a major environmental victory of the sort that's eluded Sacramento the past several years. The twin bills would have required all single-use plastic packaging and "priority" products such as foodware and takeout containers to be truly recyclable or compostable by 2032. Manufacturers would have had to ensure that 75 percent of their products never reached landfills. If they failed, the state could ban their products in California altogether.

The proposal has drawn intense opposition from some of industry players and Capitol heavy-hitters. Dart Container Corp. — a familiar name to anyone who orders takeout — donated to 75 lawmakers this session, including 20 of the 24 Assembly members who let the bill die by abstaining. The lobbying group Californians for Recycling and the Environment, spearheaded by packaging manufacturer Novolex, reported spending \$3.3 million over the first 18 months of the two-year session to oppose the two bills.

But it wasn't just a packaging company attack. The Consumer Brands Association, which includes Coca-Cola, Target, General Mills and other retailers and manufacturers, opposed the measure. So did the Western States Petroleum Association, a perennial Sacramento powerhouse whose oil members include manufacturers of chemicals used in plastic

production.

The groups say the state should focus first on shoring up its recycling infrastructure and that setting a recycling mark — like 75 percent — doesn't account for factors out of the hands of manufacturers. Californians for Recycling and the Environment said in a statement that it wants a plan that "allows for harmonization with other states and one that has appropriate funding and infrastructure plans."

As on many issues, California became the beachhead for the battle over American packaging.

"Companies can't just design their packaging for California when we're 10 to 12 percent of the market," said Heidi Sanborn, executive director of the Sacramento-based National Stewardship Action Council and chair of a state committee trying to fix recycling markets. "That's why California matters, because whatever we do, chances are the companies are going to have to retool for the entire country. That's why they fight here more; they know it really matters."

State lawmakers have chipped away at the recycling problem for the past two years. Last year, they paved the way for restaurants to refill customers' reusable containers and replaced the triangular-arrow label on plastic containers with a plain triangle to combat the misperception that all plastics are recyclable. They passed a bill this year that would require plastic beverage containers be made of at least 50 percent recycled content by 2030.

Still, the death of the plastic waste bills in the final hour of legislative session will cast a long shadow.

The record will show that one bill died for lack of votes. The other died from legislative dysfunction.

California's end of session is always a mad scramble as lawmakers and lobbyists jockey to maneuver bills through both houses before the clock strikes midnight and the calendar turns to September. Hopes are frequently dashed, left on the Legislature's red and green carpets in a shroud of uncertainty. Dealmaking occurs in the recesses of Capitol backrooms and — more recently — through text chains on legislator cellphones.

This year was unparalleled. As a coronavirus precaution, most staff were barred from the legislative floors. Nearly the entire Senate Republican caucus had to quarantine at home and vote remotely after one member tested Covid-19 positive days beforehand. And the Democratic leaders of the two houses were barely on speaking terms after months of disagreement over how to manage legislative proceedings during a pandemic.

Still, environmentalists had reason for hope on the penultimate day of session when the Senate approved AB 1080 by a 23-12 vote. All that needed to happen was for Senate President Pro Tem Toni Atkins to send the bill to the Assembly for final approval.

That never occurred.

The houses agreed beforehand to move the plastics bills simultaneously when they reached the same relative step in the legislative process, a courtesy to ensure that both houses get enough credit and don't jam one another unexpectedly with tough votes. That meant the Senate would send AB 1080 back to the Assembly whenever the lower house sent SB 54 to the Senate.

Hours before deadline, SB 54 fell short on the first try in the Assembly, but many of the Democratic holdouts seemed like winnable liberals, not just moderates sympathetic to business concerns. As the night wore on, however, it became increasingly clear that the bill was gasping for air. In the final tally, SB 54 fell four votes shy of the 41 it needed to pass. Of the 24 members who abstained, 17 were Democrats.

"We were in a very strong place in the Senate and a pretty strong place in the Assembly," said the main author of SB 54, Sen. Ben Allen (D-Santa Monica). "We're never going to do this AB/SB thing again, I'll tell you that."

The outcome surprised backers who thought they were in good shape. A legislative source suggested the bills were collateral damage amid the two-house feud.

Opinions differ on whether Assembly Speaker Anthony Rendon — who voted for the bill — could have shaken four more votes loose by the end of the night, with lawmakers facing a midnight deadline and relations between the houses steadily growing more acrimonious as time ran short.

"The plastics bill was always going to be a heavy lift," said Rendon communications director John Casey.

But in a house with 61 Democrats, getting from 37 votes to 41 "is a 3-inch putt," said Jennifer Fearing, a lobbyist for nonprofits and environmental groups. "They either didn't swing or they swung and missed, and I don't know which."

All agree on the role that industry played in lobbying against the bills. Friedman said one assemblymember told her they received text messages from industry representatives during the vote. "I certainly couldn't tell you whose money was where, but there was just a lot of industry," she said. "It wasn't just people who manufacture plastic."

The California Chamber of Commerce said it had been negotiating for amendments since last year that would have expanded the bill to address permitting issues for new recycling facilities, mandate consistent recycling rules across local governments and define "recyclable" and "compostable" according to international standards.

"We wanted to know the rules of the game and we wanted a pathway to play and we wanted mandates that were clear," said Adam Regele, a policy advocate with CalChamber. "You can't do any of this piecemeal...I think the votes weren't there because folks can be for recycling and for improving the environment and recognizing that a bill is flawed enough that it sets up more problems than it helps."

The lead Assembly author, Assemblymember Lorena Gonzalez, questioned whether opponents would ever cut a deal.

"I've been whipsawed on amendments from the day we introduced this," she said on the Assembly floor before the vote. "It will never be enough for the lobbyists who believe that we shouldn't do anything."

Lawmakers are licking their wounds and looking towards the 2022 ballot, where waste hauling giant Recology has submitted signatures to place a recycling initiative. Like the bills, the initiative would require single-use plastic packaging and containers to be made recyclable or compostable — but would also impose a tax on them starting in 2022 and ban polystyrene food containers altogether.

Gonzalez used it as a threat to urge lawmakers to put their stamp on recycling policy before then. "If you want to wait till 2022 and let a company put something on a ballot that's going to pass, that's fine, or we can be part of the solution," she said.

It's not clear whether lawmakers will try to find a Capitol compromise next year that pre-empts the 2022 initiative. Backers say the measure is currently polling well, but voters may balk at imposing a new tax — a reach in any election cycle but even more difficult if the economy is still reeling from the pandemic.

"Taxes are always unpopular, but to do it at a time when people are homeless and losing everything and businesses are closing?" Sanborn said. "We don't know where we're going to be a year from now. My expectation is it's going to be a very easy target politically for opponents."