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“...the State’s role under the law is basically limited to collecting funds and then pass [sic] them along to the counties.”

— Deputy Director of Environmental Health, Department of Health

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Audit of the Department of Health’s Glass Advance Disposal Fee Program

Report No. 14-16, December 2014

Health department is not committed to administering the non-deposit glass fee

Senate Concurrent Resolution No. 74, Senate Draft 1, House Draft 1, of the 2014 Legislature asked the Auditor to perform an audit of the Department of Health’s glass advance disposal fee (ADF) program. It also requested that we examine local alternatives to shipping glass containers out of state for recycling.

Law lacks guidance on state solid waste disposal goals, and the department has not sought corrective actions

In this, the first of two reports, we found the state’s solid waste disposal goals are outdated and the glass ADF program lacks performance goals that are tied to a clear mission. As a result, it is unclear what the glass ADF program is supposed to accomplish and how to measure its progress. The department has contributed to these ambiguities by not establishing ADF program goals, or adopting additional ADF program guidance through rule-making—basic administrative responsibilities. Without a clear baseline from which to judge the ADF program’s performance, the Legislature cannot make an accurate assessment of the appropriateness of the ADF rate.

By law, the ADF is to provide funding for county glass recovery programs and contribute to the achievement of the State’s solid waste reduction goals. However, the law is unclear and outdated, and administrative rules to clarify this discrepancy are missing. The basis for establishing the original ADF rate is unknown; the original statutory goals for the ADF program were later removed from statute and the department has not adopted administrative rules to fill the gap. To make informed decisions about whether to amend the glass ADF law or adjust the ADF rate, the Legislature needs accurate and complete information about the glass ADF program’s performance. To properly plan and budget for their annual glass recycling programs, counties need accurate and consistent estimates of their annual ADF allocations. The department has not provided either of these things.

Department administers the glass ADF as a pass-through fund

We found the department views its role for the glass ADF as limited to collecting funds and passing them along to counties. This approach may explain a number of shortcomings we found in the department’s administration of the glass ADF, particularly regarding overseeing costs and compliance with state laws. The department’s administration of the glass ADF program is lax: it does not verify costs, was unaware of the use of some of its ADF funds, allowed counties to overspend their allocations, and has not dedicated resources to administering the program. The department also circumvented key ADF laws by allowing counties to retain unspent ADF funds, and is providing funds to one county despite its having no buyback program as required by law.

The department does not verify or require supporting documentation for the costs claimed by counties and recyclers, so is unable to determine why incentive rates to recyclers vary from county to county. Lack of documentation identifying and verifying costs also limits the department’s ability to assess whether the ADF rate adequately covers costs for county glass recycling programs or whether the rate should be adjusted. The department’s perspective that it merely collects and distributes ADF funds to the counties does not exempt it from complying with state laws governing the glass ADF. The department knowingly did not enforce the ADF law and, in fact, took actions to avoid compliance with it. Some counties were permitted to use unspent ADF moneys instead of following the law by returning unused funds to the State. The department also changed its method of payment to the counties to avoid compliance with this statutory provision. The department has also been providing ADF funds to Kaua’i County despite the fact that it does not have a buyback program.

Agency response

The Department of Health suggested minor technical changes to our report but generally agreed with our findings and recommendations.