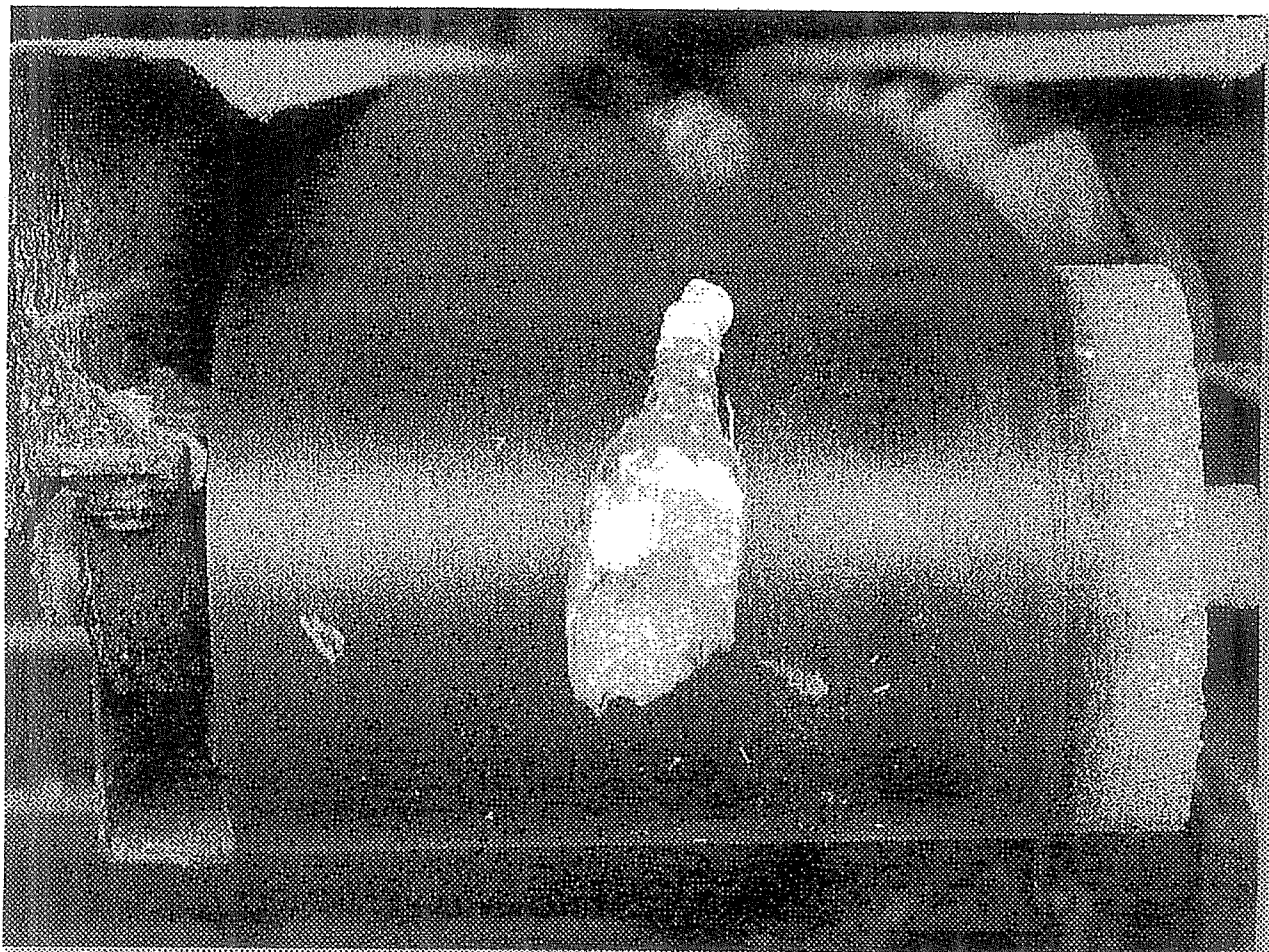




Photos by NADIA BOROWSKI-SCOTT/The Orange County Register

SHARP EDGES: A bottle falls off a conveyor belt at a Huntington Beach plant where workers pull recyclable containers from municipal trash.

The Rival

CHAPTER FOUR

By Daniel M. Weintraub/The Orange County Register

The Capitol, January 1999.

Mark Murray always heard that politics made strange bedfellows. He was about to find out what it was like to be under the covers.

For his entire career Murray had been fighting the two companies that manufactured almost every glass bottle sold in California. He was the state's most committed advocate for recycling. They wanted nothing less than to repeal huge chunks of the state's recycling program.

Now, Murray found himself doing the unthinkable – asking his arch nemesis to help him expand recycling. But as it turned out, the glass companies needed Murray as much as he needed them. They stood to lose millions of dollars if his bill did not pass by the end of the year. So as the 1999 legislative session dawned, Murray was seated across the table from Alan L. Edelstein, the chief lobbyist for the glass-bottle industry.

The two men closeted themselves in a tiny second-floor conference room overlooking the Capitol's east steps, where towering English elms marked the old oval carriage track to the Statehouse doors.

They were there on the orders of Sen. John Burton. The Senate leader, through his aides, had let Murray know he was willing to help him expand recycling by requiring deposits on billions of bottles and cans long exempt from California's law.

But Burton wanted this done without harming the glass industry. He didn't care how they did it. Murray and Edelstein could write almost anything they pleased as long as the two of them agreed on it.

Edelstein, an owl-like man whose stiff brown hair was always trimmed neatly above his ears, was about 15 years Murray's senior and had twice as much experience in the Capitol.

A lawyer by training and an undergrad at Berkeley in its anti-war heyday, he could argue persuasively for whatever point he was trying to make. But like many good lawyers Murray knew, he didn't seem to show a personal interest in the causes he pushed. Clients told him what they needed. His job was to get it done.

Murray could never do that. He knew he could earn a lot more than \$60,000 a year if he did. Edelstein was pulling in six figures from glass alone – and they were just one client. But Murray needed to work for a cause he believed in. And he didn't want to take orders from anyone.

He considered Edelstein an honorable guy. He just worked for dinosaurs, Murray thought. The glassmakers' employees came off like a bunch of union goons who loved to scream and shout, even when they didn't know what they were talking about. Once, one of them pinned the 150-pound Murray against a wall in a Capitol hallway, poked a finger into his chest and bellowed at him, blaming him for the loss of hundreds of jobs.

The target of the glass industry's anger was a concept that lay at the heart of the state's recycling program but was invisible to the general public. Designed by the man who gave Murray his start in the Capitol, Bill Shireman, it was a simple idea that put California on the cutting

edge of the environmental movement: require beverage companies to foot the bill for the pollution their products cause.

Glass bottles were charged what amounted to a pollution tax. The state used the money to subsidize hundreds of little companies that collected, sorted, cleaned and shipped the bottles back to the factories to be melted down and used again. The fees drove up the cost of drinks sold in bottles, nudging consumers toward beverages sold in environmentally friendlier aluminum cans.

Murray had spent 12 years defending his old mentor's legacy, and he thought the system made perfect sense. It worked so well, in fact, that the glass companies blamed it for the industry's decline. In 1995, the Legislature took pity and cut the fees – temporarily. Without that break, the industry would be paying nearly \$50 million a year; instead, the fees were closer to \$12 million. But that deal was about to expire. Edelstein was well paid to keep it alive.

Edelstein's opening offer was bold: The glass companies would support Murray's expansion, but they needed to hang on to the break they had. And they wanted a bigger one.

Murray knew Edelstein had the clout to keep the status quo. Edelstein's other clients included the city of San Francisco – Sen. Burton's hometown – and the two men had grown close while working together to defend the city's interests. Now those ties were coming in handy for Edelstein.

This grated on Murray. He'd given his blessing, reluctantly, when the glass companies won their break a few years before. At the time, he feared the industry would succeed in unraveling the whole program if its complaints were not addressed. But he saw no need to give glass an even better deal. At least not without getting something in return. So he countered Edelstein:

The fees would drop, Murray suggested, but only if more glass bottles were recycled. That was a bargain he could square with his ideals. Edelstein was intrigued. But he gave Murray his usual answer: He'd have to get back to him.

Over the next few days Murray tried to win over the Senate aides who he was working with on the bill. He exchanged a couple of phone calls with Edelstein. But he was getting nowhere. It was clear the glass guys did not like the idea.

A few weeks later, Edelstein was back at the same table with the response from his clients: No. Too much uncertainty. They realized Murray's plan could pay off for them, but it could also backfire.

Murray sighed. He ran his fingers through his unkempt brown hair. Sometimes he thought he knew the glass business better than the glass guys did. The incentives would work to their advantage. Why couldn't they see it? Murray wanted to hold out. The principles his predecessors wrote into the recycling program already had been diluted. He worried how other environmental advocates would view him if he gave away even more. But he looked at Edelstein and thought about his adversary's ties to Burton. He knew that Edelstein already was talking to lawmakers about scaling back Murray's bill. If glass wasn't happy, might they succeed in stopping him one more time? He did not want to come this close only to fail.

OK, Murray said. He would go along with a plan that would keep the industry's break from expiring – and save the companies millions of dollars more on top of that. One of his orga-



ADVOCATE: Glass-industry lobbyist Alan L. Edelstein testifies in favor of bill to expand recycling.

GLASS MONEY

The glass industry supported SB332, even though it expanded the state's recycling program, which the industry had long tried to cut. The glass makers didn't think they had any choice. If the bill didn't pass, pollution fees charged to beverage makers who sell their drinks in glass were going to increase. Instead, in the version of the bill the industry endorsed, the fees went down.

Campaign and lobbying expenses

Since 1997, the Glass Packaging Institute and glass maker Owens-Illinois:

- ▶ spent \$602,000 to lobby the Legislature.
- ▶ contributed \$225,000 to the campaigns of California lawmakers and the governor.

How the bill affected them

- ▶ The break on the pollution fees saved the industry more than \$20 million a year.

Source: Register reporting and Secretary of State records.

HOW WE DID THIS SERIAL

The narrative was told from Mark Murray's point of view to provide a window for readers into the often-secretive world of lobbying in the Capitol. It does not represent an endorsement of his opinions or his legislation by The Orange County Register.

Murray allowed reporter Daniel M. Weintraub to follow him throughout 1999 as Murray sought approval for Senate Bill 332. Murray shared his observations and strategy on the condition they were not published until after the bill was passed or killed. Information in Chapter 4 also came from:

- ▶ Sen. John Burton
 - ▶ Sen. Byron Sher
 - ▶ Owens-Brockway lobbyist Jerome Haleva
 - ▶ Owens-Brockway executive Dan Whiting
 - ▶ Glass Packaging Institute counsel Thomas Mable
 - ▶ Bill Shireman
- Dialogue between Murray and Edelstein paraphrased here was reconstructed by Murray from memory.

▶ On Page 1:
A note to readers about this serial.

▶ Tomorrow: Two friends fail Murray, forcing him to seek salvation from one of his enemies.

Find this serial online at
www.ocregister.com/shadow/



NADIA BOROWSKI-SCOTT/The Orange County Register

DRESSING FOR SUCCESS: Lobbyist Mark Murray often changes from comfortable office clothes into a long-sleeved shirt and tie as he prepares to walk the two blocks to the Capitol.

The Senator and Gallo

CHAPTER FIVE

By Daniel M. Weintraub/The Orange County Register

The Capitol, April 20, 1999.

After a decade of frustration and months of preparation, Mark Murray was ready to see his recycling bill move from the Capitol's back rooms to a public hearing. For once he was confident. He was sure the first vote on the measure – in the Senate Natural Resources Committee – would not be close. There were six Democrats and three Republicans on the committee. Murray needed just five senators to go his way to send the bill to the Senate floor.

But as Murray stood in the back of a packed hearing room, breathing in the stale air exhaled by his fellow lobbyists, a Senate aide, Evan Goldberg, pulled him aside. Sen. Bowen, Goldberg told Murray, won't be voting for your bill tonight. What? Debra Bowen was a Democrat and a big fan of recycling. But Goldberg said the senator thought the state's recycling program had been corrupted. Too many loopholes, too many subsidies. She wanted it simplified.

Murray frowned as he stood uncomfortably in the charcoal suit he'd changed into in his office before the hearing. Sure, the program had its defects. But Bowen knew as well as anyone that the whole thing had become an intricate political balancing act. Simplifying the program meant taking something away from someone – probably a special interest like the grocery stores or cola makers. So even if he got Bowen's vote this night, he might lose two votes, or more, when the legislators who favored those interests learned about the new deal.

If he lost Bowen, he would need the other five Democrats on the committee to vote his way. And as he scanned the room again, he started to feel queasy. Where was Hilda Solis? She was another Democratic vote he thought was secured. Now she was MIA. He checked with her staff. They couldn't say if she would be there.

Without Solis, Murray knew, he would lose his majority – and his bill. Unless a Republican were to come over to his side. But what would it take to get a Republican senator to vote for one of the biggest environmental bills of the year?

As long as Murray had been working to expand the state's recycling program, Gallo Wine, the world's largest winery, had been working to kill it.

The secretive family-owned company, founded by Ernest and Julio Gallo, shortly after Prohibition was repealed, had given more than \$1 million to state politicians in the past two years alone.

The Gallos had used their influence to help keep most wine bottles free of deposits. But the Gallos also made their own bottles at a glass plant in Modesto. And that glass plant had a big problem.

Murray knew the plant was having difficulty obeying a state requirement that 35 percent of the glass in new bottles come from recycled bottles.

Unlike the other factories, Gallo's tried to meet the standard with the least expensive used glass it could find. Contaminated with specks of paper, metal and other trash, the glass caused all sorts of problems in the furnaces when Gallo tried to melt it down.

What Gallo wanted was simple enough: a lower standard for recycled content. Instead of 35 percent of every bottle coming from recycled glass, Gallo wanted the threshold to be 25 percent – easing the burden on its furnaces. If that were in the bill, the measure would have the huge winery's support.

Murray knew the deal seemed absurd: One of California's largest bottle makers, Gallo, would get a special break, allowing it to recycle less. In return, Gallo would use its influence to help Murray get consumers across the state to recycle more. He weighed Gallo's request against his need to build a coalition of interest groups. Opposition from the Gallos might sink the bill. He would accomplish nothing. In that light, he thought, what they were asking seemed like a small concession. So, as he was drafting the bill early in the year, he had included the provision to aid Gallo. At some point, he knew, he might need the votes they could deliver.

■ ■ ■

Sen. Dick Monteith was a stout man with silver hair and a small mustache, a former egg-ranch manager who came to politics late in life. Republican and staunchly pro-business, the quiet, unassuming Stanford graduate had received a "0" rating from the California League of Conservation Voters. That meant, in Murray's view, that Monteith had the worst possible environmental record in the Legislature. He would have been the last guy in the Capitol expected to support the bill – but for one thing: Monteith came from Modesto, the home of Ernest & Julio Gallo.

Gallo was the biggest private employer in Monteith's district. The company gave \$15,000 to his campaign in 1998, his largest single private contribution. If Gallo, after years of opposing Murray's recycling bill, now had a reason to support it, so would Dick Monteith. And Monteith, as it happened, was one of the three Republicans on the Natural Resources Committee now seated on the dais in front of Murray.

Murray waited in the back of the hearing room as his fellow lobbyists drifted in and out, gathering in small clutches outside the door. Up front, on a riser a foot above everyone else, the senators leaned back in leather chairs listening to testimony on the bill.

Sen. Solis still hadn't arrived. Sen. Bowen was a lost cause. Murray realized he would need Monteith's vote.

Murray saw Alan L. Edelstein, the lobbyist for the glass industry. For years, at moments like this, Edelstein was rounding up votes against him. Now, because of the deal they'd cut a few weeks before, they were on the same side.

"What about Monteith?" Murray asked. Murray had not lobbied the senator. He knew he had no clout with a guy like that.

"We've talked to him," Edelstein said. But Murray couldn't be sure what would happen.

Finally, the committee secretary began to call



SKIP SHUMAN/Special to the Register

BILL BACKERS: Sens. Dick Monteith and Dede Alpert of the Natural Resources Committee each voted to send Murray's bill to the Senate floor.

THE GALLO DEAL

The E&J Gallo Winery had always opposed the state's recycling program. But last year, Gallo supported SB332 even though it expanded the program. Why? Because the bill included a provision allowing Gallo to use less recycled glass in its bottles.

Campaign and lobbying expenses

Since 1997, E&J Gallo Winery has:

► spent \$175,000 lobbying the Legislature.

► contributed \$1.6 million to the campaigns of state lawmakers and the governor.

How the bill affected them

► The lower standard saved Gallo money by allowing the company to continue to use the least costly recycled glass available. It also helped Gallo escape a fine that could have been as high as \$365,000.

Source: Register reporting and Secretary of State records

the roll. Sen. Tom Hayden, the committee chairman, voted for the bill, and Patrick Johnston and Dede Alpert. So did Byron Sher, the bill's legislative author.

"Monteith?" the secretary called.

"Aye," he responded.

Murray let out his breath.

Monteith had delivered – the only Republican to support the bill. His vote put it over the top. "Sometimes," Monteith said afterward with a shrug, "you have to make compromises."

Murray was making his share of compromises, too. And the bill was just out of the gate. Now, as it moved toward the full Senate, he feared his fellow lobbyists would pick at the measure until it was meaningless.

But lobbyists he could manage. What really worried him was the prospect of poor mothers cradling their wailing infants while they testified against his bill.

► On Page 1: Note to readers about this serial.

► Tomorrow: The fruit-juice industry accuses Murray of taking food from the mouths of hungry babes.

HOW WE DID THIS SERIAL

This story was told from Mark Murray's point of view to provide a window for readers into the often-secretive world of lobbying in the Capitol. It does not represent an endorsement of his opinions or his legislation.

Murray allowed reporter Daniel M. Weintraub to follow him as Murray sought approval for his bill. Murray shared his observations and strategy on the condition they not be published until the bill passed or died.

Information in Chapter 5 also came from Sens. John Burton, Byron Sher, Debra Bowen, Tom Hayden and Dick Monteith; aide Evan Goldberg; and Ernest & Julio Gallo Vice President Laurence Martin.

Weintraub also attended the April 20, 1999, hearing of the Senate Natural Resources Committee. He obtained campaign-contribution records from the Secretary of State and records about Gallo's recycling rate from the Department of Conservation.



WHO'S WHO

Sen. Dick Monteith (photo at right), a Republican from Modesto, had opposed the recycling program in the past.



Gallo Wine: The world's largest winery had a problem at its glass-bottle plant in Modesto. If Mark Murray could fix that problem, he might win the company's support.



Sen. Debra Bowen: The Marina del Rey Democrat was a big recycling advocate but thought the state's program was a mess.



Photos by NADIA BOROWSKI-SCOTT/The Orange County Register

WALKING THE HALLS: Mark Murray, left, Sen. Byron Sher, center, and Sher aide Kip Lipper walk through the Capitol before one of the votes on their bill.

The Piggy Bank

CHAPTER SIX

By Daniel M. Weintraub/The Orange County Register

Sacramento. Late May, 1999.

Kip Lipper was on the phone again. Mark Murray waited for the bad news. Here it came.

"You're not gonna believe this one," Lipper said from his office at the Capitol, two blocks south of Murray's office. "I ran into this lobbyist in the hall. He's working for Welch's. Opposing the bill. Here's their new argument: We're taking food from babies."

"What are they talking about?" Murray asked. He knew Welch's, the big fruit-juice cooperative, would do anything to kill the bill because it raised the cost of its products. But that wouldn't be the company's argument, Lipper explained.

The state food program for low-income women, infants and children - WIC - purchased fruit juice to improve nutrition among the poor. The new nickel deposit the bill proposed for big juice containers would cost WIC \$1.1 million a year. That was a million bucks that wouldn't be there to spend on food and juice for the infants.

Murray thought this was nuts. But he could not afford to ignore the threat, to let the argument gain traction. If he did, Welch's might find a way to arrange for a line of poor women to descend on the Capitol and testify against the bill. A nightmare.

"We're the good guys here," Murray said. "We can't let them taint us with this."

WHO'S WHO



Byron Sher: The senator from Palo Alto is a longtime advocate for environmental laws.

Kip Lipper: (above right) Sher's top aide, Lipper is a respected Capitol veteran considered a shrewd strategist who knows how to build a coalition to support a controversial bill.

Murray and Lipper knew what they needed to do: Raid their \$100 million piggy bank. Spread around the booty.

The money was actually the state's, but it could be distributed through the bill they were writing.

It was the few cents dropped into a state bank account every time someone bought a soft drink or beer and threw away the can or bottle without collecting the refund. Over the years, those pennies added up. Murray tracked the fund on his computer like it was a soaring Internet stock. It was all there in a spreadsheet, next to his marathon training schedule and the list of home-repairs he planned to undertake.

Handing out \$100 million would create a special-interest feeding frenzy - which made it the perfect job for Murray. It helped satisfy his need to be loved, to be the focus of attention. His girlfriend, Heather, teased him about it. She called it his "Mark-o-centric" view of the world.

Murray brushed off her ribbing. This was serious. The money could help him win votes.

To get something done in the Legislature, Murray knew, you didn't always need to lobby the lawmakers. Instead, you lobbied the lobbyists. Once the powerful interest groups got what they wanted, they gave the signal to legislators and your votes came rolling in.

So earlier in the spring, when opposition to the bill - now called Senate Bill 332 - started mounting, Murray began working with Lipper and

PAYOUT FRENZY

The state's recycling program took in \$450 million a year in bottle and can deposits from consumers but paid out only about \$300 million in refunds when the containers were returned. Mark Murray wanted to use that surplus to promote recycling and win friends and votes for his bill. Here are some of the payments from the fund that went into Senate Bill 332:

► **Glass industry:** \$19 million to reduce pollution fees paid by beverage makers who sell their drinks in glass bottles.

► **Plastics industry:** \$19 million break on pollution fees.

► **Recycling centers:** \$23.5 million subsidy to supermarket-based recycling centers that pay consumers refunds for bottles and cans.

► **Curbside recycling:** \$15 million subsidy to the trash haulers that operate curbside programs.

► **Local Conservation Corps:** \$15 million in grants to programs that employ youths for environmental cleanup jobs.

Sens. John Burton and Byron Sher. They added provisions that would dole out the idle \$100 million to private companies and public agencies with a stake in the bill.

Lipper made a good partner for Murray. Each had qualities lacking in the other. They even looked like opposites.

Murray's wiry body was always in motion, his bony hands chopping the air to make one point after another. His words tumbled out in herky-jerky spasms that sometimes required him to stop, rewind the thought and start again.

Lipper, stout and sturdy, spoke in a soft monotone, measuring his words to be sure to steer clear of trouble. He was a juggler and had dozens of projects in orbit at any given time. Murray - who always feared his ball would be the one Lipper dropped - was completely focused on one thing: recycling.

It helped, too, that Murray was a meticulous organizer, a keeper of lists. Lipper was not. Whenever he brought Lipper a memo or a report, Murray left it on his chair so it wouldn't be buried in the mountain of paper on his desk.

Murray knew that some payments they wrote into the bill were consistent with promoting recycling. But some simply were meant to ease the bill's passage through the political pipeline.

And so the frenzy began.

Among the first with their hands out were the beer, glass and soft-drink companies, which got a bigger break - now up to \$40 million - on the pollution fees they paid on every glass and plastic bottle they sold. The glass and cola makers had always fought Murray; the payout hurt.

But friends were also in line. The trash companies that ran the curbside recycling programs were promised \$15 million - tripling the subsidy they had been getting.

The Local Conservation Corps, a program that employed kids to clean up the environment,



HUDDLING: Kip Lipper, center, and his boss, Sen. Byron Sher, prepare for discussion of the bill before the Assembly Natural Resources Committee.

wanted money and was a favorite of many lawmakers. Another \$15 million out the door.

As baldly political as any payout was the \$3 million that went to San Diego to expand its curbside recycling program. Why favor one city over all the others? Because a San Diego assemblyman, Howard Wayne, was chairman of the Natural Resources Committee. SB332 would have to pass through him.

Then there was the downright quirky. The director of a little outfit from Del Mar - the Keep California Beautiful Foundation - called and said he could use some cash. Such penny-ante players were usually brushed off. But this group's honorary chairwoman happened to be Sharon Davis - the governor's wife. What was another \$300,000 if it might put the bill on the governor's radar screen? Cut the check.

By late May, the handouts were working. Support was building, and the bill was sailing toward the Senate floor. Murray grew more confident.

Then came Lipper's call about the threat from the Welch's guy. It was time to bring out the checkbook again. Huddling in Lipper's office, they agreed to write an amendment to the bill. One million dollars would be shaken out of the piggy bank and sent to the nutrition program to offset the new deposits on juice containers. At least the money would help the poor and not private industry, Murray reasoned.

With days to go before a Senate vote, Murray drafted the changes and delivered them to the Legislature's lawyers on the third floor of the Capitol. He left a copy for Lipper. In his backpack he carried an extra - in case Lipper lost his. Sher, Lipper's boss, OK'd the amendments and inserted them into the bill. And on June 2, SB332 passed the Senate with little discussion. The vote was 25-10. The extra million had done its job.

But Murray knew his work was not over. As the bill moved on to the Assembly, more opponents - and more supplicants - would be waiting. First on the agenda were the igloo people.

► **On Page 1:** Note to readers about this serial.

► **Next:** Murray is caught in a dispute between inner-city scrap yards and supermarket recycling centers.

HOW WE DID THIS SERIAL

This story was told from Mark Murray's point of view to provide a window for readers into the often-secretive world of lobbying in the Capitol. It is not an endorsement of his opinions or legislation. Murray allowed reporter Daniel M. Weintraub to follow him as Murray sought approval for Senate Bill 332. He shared his observations and strategy on the condition they were not published until the bill was passed or killed.

Information in Chapter 6 also came from Sen. John Burton, Sen. Byron Sher, Murray's girlfriend Heather Strauch, and trash-industry lobbyist Josh Pane.

Weintraub obtained a letter from Murray to the Department of Health Services regarding the potential effect of higher deposits on the state's nutrition program. The dialogue reported here was reconstructed by Murray from memory.



A HISTORY OF CALIFORNIA LOBBYING: 1970s

Disgust over the Watergate scandal prompted California voters to approve the Political Reform Act of 1974.

The act required detailed disclosure of campaign contributions and forced lobbyists and their employers to report their activities and spending. It also effectively ended the prac-

tice of lobbyists buying dinner and drinks for lawmakers, by slapping a \$10-a-month limit on such favors.

The measure also further defined conflicts of interest and established a new agency - the Fair Political Practices Commission - to investigate reports of lawmakers with financial

ties to business interests with issues before the Legislature. It forced lawmakers to file annual reports disclosing their investments and sources of outside income.

Together with the advent of the full-time Legislature, the Political Reform Act helped change the Sacramento cul-

ture. Lawmakers increasingly brought their spouses and families to live with them in the Capitol, which meant fewer chances to carouse with lobbyists after hours.

When they did go out, the limits on lobbyists' spending meant that an influential advocate no longer could lay his

credit card on the bar and order a round for the house.

But while the Political Reform Act hemmed in lobbyists, it did nothing to limit spending by the companies and interest groups that employed them. So the winning, dining and gift-giving shifted there. Before long, many legislators were being

flown around the country or the world to give speeches. And some were being paid thousands of dollars to walk down the block for lunch with company executives.

► **Next:** Willie Brown and the art of the deal. It will appear along with Chapter 8.