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Fiscal Note

Drafting Number:	LLS 24-0517	Date:	February 19, 2024
Prime Sponsors:	Sen. Priola; Hansen Rep. Mauro; Froelich	Bill Status:	Senate Finance
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Bill Topic: **WASTE TIRE MANAGEMENT ENTERPRISE**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill creates the Waste Tire Management Enterprise. It increases state revenue and expenditures on an ongoing basis beginning in FY 2024-25, and may impact local revenue and expenditures.

Appropriation Summary: The bill requires a reduction in appropriations to the CDPHE. Enterprise spending will increase from the continuously appropriated Waste Tire Management Enterprise Fund and the End Users Fund. See State Appropriations section.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under SB 24-123**

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	Cash Funds	up to \$10.6 million	up to \$21.9 million
	Total Revenue	up to \$10.6 million	up to \$21.9 million
Expenditures	Cash Funds	up to \$10.6 million	up to \$21.9 million
	Centrally Appropriated	\$24,891	\$24,891
	Total Expenditures	up to \$10.6 million	up to \$21.9 million
	Total FTE	1.4 FTE	1.3 FTE
Transfers		-	-
Other Budget Impacts		-	-

Summary of Legislation

Under current law, the Department of Public Health and Environment (CDPHE) collects a fee from the sale of each new tire to pay for cleaning up waste tires, providing grants to local entities, offering rebates to end users of waste tires, and other related activities.

The bill creates the Waste Tire Management Enterprise in CDPHE and moves many of the department's functions related to waste tires to the enterprise. CDPHE must provide office space and administrative support to the enterprise upon request. The bill also extends the waste tire fee, which is scheduled to repeal on December 31, 2025, through December 31, 2040. The enterprise is permitted to raise the waste tire fee from \$0.55 per tire to an amount determined by the enterprise of up to \$4.00 per tire. As an enterprise, this fee revenue is not subject to the state's revenue limit (TABOR).

The bill makes a number of conforming changes, including:

- renaming the Waste Tire Administration, Enforcement, Market Development, and Cleanup Fund as the Waste Tire Management Enterprise Fund, and making both it and the End Users Fund continuously appropriated to the enterprise;
- appointing a board of directors to oversee the enterprise, who are permitted per diem expenses and reimbursement for costs incurred in their duties;
- granting the enterprise the authority to issue revenue bonds; and
- clarifying which waste tire functions are the responsibility of the enterprise and which should be requested from CDPHE.

State Revenue

On net, the bill increases state cash fund revenue by up to \$10.6 million in FY 2024-25 and \$23.7 million in FY 2025-26, which is credited to the Waste Tire Management Enterprise Fund and to the End Users Fund. Any revenue generated by the enterprise, including revenue from the existing waste tire fee, is not subject to TABOR. This estimate is based on a fee of \$4.00 per tire. The amount of new revenue will be less if the enterprise sets a fee less than the maximum.

Fee impact on tire purchases. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the Waste Tire Enterprise based on cash fund balance, program costs, and the number of tires expected to be sold. Table 2 below identifies the maximum potential fee impact of this bill if the fee is raised from \$0.55 to \$4.00 (a \$3.45 increase) effective January 1, 2025. The analysis also assumes the number of tires sold will increase by 3 percent each year.

Table 2
Fee Impact on Tire Purchases

Fiscal Year	Type of Fee	Proposed Fee Increase¹	Number Affected	Total Fee Impact
FY 2024-25	Waste Tire Fee (half-year)	up to \$3.45	3.1 million	up to \$10.6 million
FY 2025-26	Waste Tire Fee	up to \$3.45	6.4 million	up to \$21.9 million

¹ The actual fee amount will be set by the enterprise.

Voter approval of new state enterprises. Current law requires voter approval for a state enterprise with projected or actual revenue from fees and surcharges over \$100 million in its first five fiscal years. The new enterprise in this bill will begin operating in FY 2024-25. Through FY 2029-30, the enterprise is projected to collect less than \$100 million in fees. Should fee revenue to the new enterprise approach the \$100 million threshold, it is assumed that the enterprise board will adjust waste tire fees so as not to exceed this amount.

State Transfers

Under current law the balance of the Waste Tire Administration, Enforcement, Market Development, and Cleanup Fund and the End Users Fund transfer to the General Fund in 2026. By extending the programs, the bill eliminates these transfers, and instead transfers any remaining balance of the End Users Fund to the General Fund in 2041.

State Expenditures

On net, the bill increases state expenditures in CDPHE by up to \$10.6 million in FY 2024-25 and up to \$21.9 million in FY 2025-26, paid from the Waste Tire Management Enterprise Fund and the End Users Fund. These are net impact after shifting the existing waste tire program to the enterprise, accounting for additional administrative costs to set up and run the enterprise, and potentially expanded operations if waste tire fees are increased above current levels.

**Table 3
Expenditures Under SB 24-123**

	FY 2024-25	FY 2025-26
Department of Public Health and Environment		
Shift of Current Program from CDPHE	(\$4,375,256)	(\$8,750,511)
Shift of Current Program to Enterprise	\$4,375,256	\$8,750,511
Expanded Enterprise Operations	up to \$10,400,000	up to \$21,700,000
Personal Services	\$117,921	\$117,921
Operating Expenses	\$1,536	\$1,536
Capital Outlay Costs	\$6,670	-
Legal Services	\$51,208	\$25,604
Board Expenses	\$9,000	\$9,000
Centrally Appropriated Costs ¹	\$24,891	\$24,891
FTE – Personal Services	1.2 FTE	1.2 FTE
FTE – Legal Services	0.2 FTE	0.1 FTE
Total Cost	up to \$10,611,226	up to \$21,878,952
Total FTE	1.4 FTE	1.3 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Health and Environment. Under the bill, current expenditures on the waste tire program will shift from the Hazardous Materials and Waste Management Division to the newly created enterprise. In addition, the new enterprise will require additional staff for the expanded duties of the enterprise.

- **Shift of existing program funding.** CDPHE’s current waste tire program will instead be administered by the enterprise. Current funding for the program is about \$8.8 million and 8.0 FTE on a full year basis. The existing program will shift to the new enterprise on January 1, 2025.
- **Staff.** The fiscal note assumes that the enterprise will require an additional 1.2 FTE starting in FY 2024-25. Standard operating and capital outlay costs are included.
- **Legal services.** The enterprise will require about 400 hours of legal services to update rules and fees in FY 2024-25, and about 200 hours in FY 2025-26. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.
- **Board expenses.** The enterprise’s board members are eligible for reimbursement for costs incurred to attend board meetings, and most are also eligible for a per diem.

- **Expanded enterprise operations.** The enterprise has the authority to raise revenue by issuing bonds or raising the waste tire fee above the current fee level (as described in the State Revenue section above). If it chooses to do so, expenditures will likewise increase to perform additional waste tire management activities, including expanding the rebate program for end users of waste tires and awarding grants to local entities.

Other state agencies. The bill may increase expenditures in any state agency that purchases tires. This is expected to increase expenditures in the Department of Personnel and Administration by up to \$14,000 and in the Department of Transportation by up to \$2,000 in FY 2024-25. This can be accomplished within existing appropriations. Future increases, which depend on the fee set by the enterprise, will be addressed through the annual budget process.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 3.

Other Budget Impacts

TABOR refunds. The fiscal note assumes that there will be a downward adjustment to the Referendum C cap of about \$3.4 million to reflect the shift in current state revenue subject to TABOR becoming part of an enterprise. Thus, the bill will not have an impact on TABOR refunds, as it reduces state revenue subject to TABOR and the amount of the cap by equal amounts. Ongoing and additional revenue to the enterprise is not subject to TABOR and will not affect future TABOR refunds.

Local Government

If the enterprise increases the waste tire fee, more grant funding may be available to local governments for activities related to waste tire management and cleanup. Revenue and expenditures will increase in any local government that applies for and is awarded additional grant funds. In addition, expenditures will minimally increase for local governments that purchase tires.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires the following adjustments to CDPHE appropriations to account for the start of the Enterprise on January 1, 2025:

- a reduction of \$1,112,756 from the Waste Tire, Administration, Enforcement, Market Development, and Cleanup Fund; and
- a reduction of \$3,262,500 from the End User Fund.

No additional appropriations to the enterprise are required, as the Waste Tire Management Enterprise Fund and the End Users Fund are continuously appropriated to the Waste Tire Management Enterprise. The Department of Law requires a reappropriation of \$51,208 and 0.2 FTE for FY 2024-25 from the CDPHE for legal services provided to the enterprise.

State and Local Government Contacts

Law
Transportation

Personnel
Treasury

Public Health and Environment

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).