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Revised Fiscal Note

(replaces fiscal note dated April 18, 2024)

Drafting Number: LLS 24-0517 Date: April 29, 2024
Prime Sponsors: Sen. Priola; Hansen Bill Status: House Appropriations
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Bill Topic: WASTE TIRE MANAGEMENT ENTERPRISE

Summary of Fiscal Impact: [X] State Revenue [X] State Transfer [X] Local Government
[X] State Expenditure [] TABOR Refund [] Statutory Public Entity

The bill creates the Waste Tire Management Enterprise. It increases state expenditures beginning in FY 2024-25, increases state revenue and eliminates a transfer beginning in FY 2025-26, and may impact local revenue and expenditures.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$60,208 to the Department of Public Health and Environment.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill, as amended by the House Finance Committee.

Table 1
State Fiscal Impacts Under SB 24-123

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund).

1 While most of the revenue under the bill not subject to TABOR since it is collected by an enterprise, the bill also creates a fee collected by the CDPHE that is subject to TABOR (\$7.9 million). See Other Budget Impact section below for more detail.

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.

Effective July 1, 2025, 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 lease office space and provide administrative support to the enterprise upon request. The bill also repeals the existing waste tire fee, which is \$0.55 and scheduled to repeal on December 31, 2025, and creates the following two new fees collected by the enterprise:

- the waste tire enterprise fee, which is assessed on the sale of new tires in an amount determined by the enterprise of up to \$2.50 per tire; and
- the waste tire administration fee, which must be at least \$0.50 but not more than half the waste tire enterprise fee.

The enterprise may change the fee amounts annually, and the maximum amount of the waste tire enterprise fee is indexed to inflation. As an enterprise, this fee revenue is not subject to the state's revenue limit (TABOR). The bill continues the fee indefinitely.

The bill extends the use of monofill storage by 10 years, until 2034, and it also creates the Waste Tire Management Grant Program to promote the development of waste tire recycling, beneficial reuse, and management strategies. The enterprise may use up to 10 percent of the waste tire enterprise fee revenue for the grant program each year.

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, creating the Waste Tire Administration Fund, and making these funds and the End Users Fund continuously appropriated;
- 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 authority to issue revenue bonds;
- allowing CDPHE to loan money to the enterprise to defray expenses until the new fees start; 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 \$22.1 million in FY 2025-26, which is credited to the Waste Tire Management Enterprise Fund, the Waste Tire Administration Fund, and the End Users Fund. Revenue generated by the enterprise is not subject to TABOR. Revenue generated by the waste tire administration fee is subject to TABOR. This estimate is based on total fees of up to \$3.75 per tire. The amount of new revenue will be less if the enterprise sets fees below 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 net fee is raised from \$0.55 to \$3.75 (a \$3.20 increase) effective July 1, 2025. Because the existing fee is scheduled to repeal on December 31, 2025, that portion represents a half-year impact. 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	Estimated Fee Increase¹	Number Affected	Total Fee Impact
FY 25-26	Existing Waste Tire Fee (half-year)	(\$0.55)	3.2 million	(\$1.7 million)
	Waste Tire Enterprise Fee	up to \$2.50	6.4 million	up to \$15.9 million
	Waste Tire Administration Fee	up to \$1.25	6.4 million	up to \$7.9 million
FY 2025-26 Total				up to \$22.1 million

¹ Fee amounts shown are the maximum; actual fee amounts will be set by the enterprise and will vary from this estimate.

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. Table 2 shows the maximum fee increase allowed by the bill; however, the enterprise board will adjust these fees so that collections do not exceed \$20 million per year.

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.

State Expenditures

On net, the bill increases state expenditures in CDPHE by about \$60,000 in FY 2024-25 and up to \$22.1 million in FY 2025-26, paid from the Waste Tire Management Enterprise Fund, the Waste Tire Administration Fund, and the End Users Fund. These are net impacts after shifting the existing waste tire program to the enterprise, accounting for additional administrative costs to set up and run the enterprise, and 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	-	(\$8,750,511)
Shift of Current Program to Enterprise	-	\$8,750,511
Expanded Enterprise Operations	-	up to \$21,800,000
Personal Services	-	\$172,637
Operating Expenses	-	\$2,816
Capital Outlay Costs	-	\$13,340
Legal Services	\$51,208	\$25,604
Board Expenses	\$9,000	\$9,000
Centrally Appropriated Costs ¹	-	\$41,552
FTE – Personal Services	-	2.2 FTE
FTE – Legal Services	0.2 FTE	0.1 FTE
Total Cost	\$60,208	up to \$22,064,949
Total FTE	0.2 FTE	2.3 FTE

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

Department of Public Health and Environment. Under the bill, the enterprise will perform rulemaking in FY 2024-25, using loaned funding from CDPHE. Current expenditures for the waste tire program will shift from the Hazardous Materials and Waste Management Division of CDPHE to the newly created enterprise in FY 2025-26. In addition, the new enterprise will require additional staff for the expanded duties of the enterprise beginning in FY 2025-26.

- **Shift of existing program funding.** CDPHE’s current waste tire program will instead be administered by the enterprise beginning in FY 2025-26, when it is allowed to collect this fee revenue. Current funding for the program is about \$8.8 million and 8.0 FTE on a full year basis.
- **Staff.** The fiscal note assumes that the enterprise will require an additional 2.2 FTE starting in FY 2025-26. 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. These costs begin in FY 2024-25.

- **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 \$31,000 and in the Department of Transportation by up to \$5,000 in FY 2025-26. As actual expenditures will depend on the fee set by the enterprise, this 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 bill is expected to increase the amount of state revenue required to be refunded to taxpayers by \$7.9 million in FY 2025-26. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. This revenue is from the Waste Tire Administration Fee, which is collected by the CDPHE rather than the enterprise, is subject to TABOR. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

In addition, the fiscal note assumes that there will be a downward adjustment to the Referendum C cap of about \$1.7 million to reflect the shift in current state revenue subject to TABOR becoming part of an enterprise. Thus, 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, except that the sections pertaining to the new fees and the enterprise's operations take effect July 1, 2025.

State Appropriations

For FY 2024-25, the bill requires an appropriation of \$60,208 to the Department of Public Health and Environment from the Waste Tire Administration, Enforcement, Market Development, and Cleanup Fund, for use by the enterprise. Of this, \$51,208 is reappropriated to the Department of Law, with 0.2 FTE.

State and Local Government Contacts

Law	Personnel and Administration	Public Health and Environment
Transportation	Treasury	

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](#).