

**STATE and LOCAL
FISCAL IMPACT**

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Prime Sponsor(s): Rep. Pabon
Sen. Schwartz

Bill Status: House SVMA

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TITLE: CONCERNING IMPLEMENTATION OF A DEPOSIT BEVERAGE CONTAINER PROGRAM.

| Fiscal Impact Summary | FY 2011-2012 | FY 2012-2013 |
|--|----------------------------|-----------------------------|
| State Revenue | | |
| Cash Funds | | |
| Deposit Beverage Container Fund to: | <u>\$79,241,250</u> | <u>\$105,655,000</u> |
| Department of Revenue | \$36,018,750 | \$31,216,250 |
| State Education Fund | \$28,815,000 | \$24,973,000 |
| Recycling Resources Economic Opportunity Fund | \$7,203,750 | \$6,243,250 |
| Retained in fund (net of allocations, payments, and operating expenses) | \$6,867,162 | \$1,690,225 |
| Hazardous Substance Response Fund (reduction in tipping fees) | (\$148,476) | (\$148,476) |
| State Expenditures | | |
| Cash Funds | | |
| Deposit Beverage Container Fund (payments to redemption centers) | \$0 | \$40,341,000 |
| Deposit Beverage Container Fund (Department of Revenue's operating costs) | \$366,588 | \$1,191,275 |
| FTE Position Change | 5.2 FTE | 14.7 FTE |
| Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed. | | |
| Appropriation Summary for FY 2011-2012: See Appropriations section. | | |
| Local Government Impact: See Local Government section. | | |

Summary of Legislation

The bill creates the Deposit Beverage Container Program for most plastic and glass beverage containers with a capacity of up to and including 64 ounces. The bill establishes the program in the Department of Revenue and sets requirements for deposit beverage distributors, consumers, redemption centers, program administration, and the disposition of revenues. Beginning January 1, 2013, every beverage container sold in the state will have a refund value of five cents (\$0.05).

Deposit Beverage Container Fee. Beginning October 1, 2011, every deposit beverage distributor is required to pay a deposit beverage container fee of one-half cent (\$0.005) to the department on each beverage container manufactured or imported into the state. Beginning October 1, 2013, the fee is increased to one cent (\$0.01) per container. Beginning January 1, 2014, the fee is based on the number of containers sold and the number recovered during the previous quarter. If the recovery rate is 70 percent or less the fee is one cent (\$0.01) per container; the fee increases to one and one-half cents (\$0.015) if the recovery rate exceeds 70 percent.

Registration. All beverage distributors are required to register with the department by September 1, 2011. After that date, all prospective distributors are required to register before commencing business. All registered distributors are required to maintain records of all beverage containers manufactured, imported into, and exported out of the state.

Funds. The bill creates the Deposit Beverage Container Fund in the State Treasury to consist of all revenues generated from the deposit beverage container fee, the deposit beverage container deposit, and all accrued investment earnings. Of the unredeemed deposit refund values, 10 percent will be transferred to the Recycling Resources Economic Opportunity Fund, 40 percent will be transferred to the State Education Fund, and the remaining 50 percent will be allocated to the department to cover administrative costs and to provide recycling education.

Inventory reporting. Beginning October 1, 2011, all deposit beverage distributors are required to submit to the department an inventory of all containers manufactured in, imported into, and exported out of the state, and remit payment in the amount of the prevailing deposit beverage container fee and the refund value of five cents (\$0.05). Given the effective date of the fee, for FY 2011-12 the total fee is \$0.055 and applies for nine months. For FY 2012-13, the total fee is \$0.06 per container and the fee applies to the entire fiscal year.

Deposit beverage container refund value. Beginning January 1, 2013, every beverage container sold in the state will have a refund value of five cents (\$0.05). The refund value is equal to the amount of the required deposit. Every distributor who pays a deposit shall charge the dealer or consumer a deposit equal to the refund value for each container sold in the state, excluding sales for on-premises consumption. Consumers may recover the amount of the deposit at the time of redemption.

Labeling. Every container sold in the state must clearly indicate the container's refund value and the word "Colorado", or the letters "CO", or other indications as specified by the department.

Redemption centers. Every dealer, with certain specified exceptions, is required to operate a container redemption center, pay the redeemer full refund value, ensure that each container collected is recycled, and provide documentation to support payment claims. The department must determine the need for, and establish, redemption centers in those areas where the dealers are not required to maintain a redemption center. Businesses that sell beverages for on-premise consumption are required to redeem containers at a redemption center, or become certified redemption centers. The fiscal note estimates that 6,500 redemption centers will apply for certification.

The department is required to certify redemption centers prior to the centers' commencement of operations. The department will establish an application form for prospective redemption centers. The proposed legislation establishes certification criteria, including the authority to utilize reverse vending machines.

The department will pay each redemption center a handling fee of not less than the prevailing beverage container fee for each container redeemed that is transported out of the state or that is received by an approved recycling facility. Payment will be based on reports submitted by the center to the department. The department will publish a statewide notice of the recovery rate for the calendar quarter for which the handling fee will be paid. The handling fee will be paid in addition to the refund value of each empty container. The handling fee and refund value may be paid on the basis of total weight, by material type, or average weight of each material.

Records. The records of each deposit beverage distributor, dealer, redemption center, and recycling facility must be made available, upon request, for inspection by the department, or its designee, and by the Office of the State Auditor (OSA). The OSA is required to audit the Deposit Beverage Container Program on or before July 1, 2014.

Advisory committee. The department is required to create and convene the Deposit Beverage Container Advisory Committee for purposes of developing rules to implement the program. The department's executive director appoints the members and the members serve at the director's pleasure.

Program implementation and sunset. The Deposit Beverage Container Program must be fully implemented by January 1, 2013. The program is repealed effective September 1, 2020, following a sunset review.

State Revenue

The bill increases state revenues by \$79,241,250 in FY 2011-12 and \$105,655,000 in FY 2012-13. The distribution of these moneys is shown in Table 1 on page 4. These revenue estimates are based on the following assumptions:

- the number of eligible containers is based on 2006 actual data from the Container Recycling Institute;
- **1.921 billion containers** of the types covered by the bill are purchased annually in Colorado;
- for 9 months in FY 2011-12, distributors will pay to the department a combined deposit beverage container fee and refund value of five and one-half cents (\$0.055) per bottle; and
- 70 percent of eligible containers will be recycled annually.

Table 1 summarizes the revenues, payments, and distributions under the bill.

Table 1. Revenues, Payments, and Transfers Under HB11-1247

| | FY 2011-2012 | FY 2012-2013 |
|--|---------------------|-----------------------|
| Cash Funds Revenue | | |
| Total revenues into the Deposit Beverage Cash Fund comprised of 1) plus 2) | <u>\$79,241,250</u> | <u>\$105,655,000</u> |
| 1) payments by deposit beverage distributors of \$0.005 per container; 9 months in budget year and full year in FY 2012-13) and | \$7,203,750 | \$9,605,000 |
| 2) payments of refund value of \$0.05 per containers; 9 months in budget year and full year in FY 2012-13 | \$72,037,500 | \$96,050,000 |
| Payments | | |
| Total payments made by the Department of Revenue to redemption centers comprised of 3) plus 4) | <u>\$0</u> | <u>(\$40,341,000)</u> |
| 3) handling fee of \$0.005 per container redeemed (redemptions begin January 1, 2013; 6 months for FY 2012-13) | \$0 | (\$6,723,500) |
| 4) refund value of \$0.05 per container redeemed (redemptions begin January 1, 2013; 6 months for FY 2012-13) | \$0 | (\$33,617,500) |
| Allocation by Treasurer of Unredeemed Refund Values | | |
| 5) To Department of Revenue for allocation pursuant to formula (difference between revenue and payments excluding handling fee revenue; line 2 minus line 4) | \$72,037,500 | \$62,432,500 |
| Transfers by the Department of Revenue to | | |
| 6) Department of Revenue (50 percent of unredeemed refund values; line 5) times 0.5) | \$36,018,750 | \$31,216,250 |
| 7) State Education Fund (40 percent of unredeemed refund values; line 5) times 0.4) | \$28,815,000 | \$24,973,000 |
| 8) Recycling Resources Economic Opportunity Fund (10 percent of unredeemed refund values; line 5) times 0.1) | \$7,203,750 | \$6,243,250 |
| Balance retained in the Beverage Deposit Cash Fund (handling fees collected but not paid out due to recycling rate of 0.7) | \$6,867,162 | \$1,690,225 |

Department of Public Health and Environment. Two programs in Public Health and Environment will experience revenue reductions as a result of recycling incentives provided in the bill. The expected decrease in the amount of solid waste being delivered to landfills will result in a corresponding decrease in the collection of solid waste user fees, collected as tipping fees. Reductions of \$144,579 Cash Funds and 1.5 FTE are estimated in the Solid Waste and Materials

Management Program. The Solid and Hazardous Waste Commission has the authority to adjust solid waste fees in order to recover lost revenue, therefore, these reductions are not reflected in the fiscal note. In order to fully recover the anticipated revenue reduction, fees would have to increase 2 cents (\$0.02) per ton, from 43.3 cents (\$0.433) per ton to 45.3 cents (\$0.453) per ton.

For the same reasons state above, a reduction of \$148,476 Cash Funds is estimated for the Hazardous Substance Response Fund. Fees associated with this program are set in statute. The estimated reduction is reflected in the fiscal note since a statutory change is required in order to increase fees to recover the estimated loss.

State Expenditures

Department of Revenue. The department is required to administer a statewide Return Deposit Beverage Container Program. Table 2 provides a summary of the department's cash fund expenditures, based upon the assumptions that the department will:

- register and regulate all beverage distributors;
- inspect all distributor container records;
- promulgate rules;
- determine requirements for redemption centers and establish redemption centers, where necessary;
- review certifications and certify redemption centers;
- pay handling fees and container refund values to redemption centers;
- publish quarterly notices of recovery rates;
- convene an advisory committee;
- assess effects of the program; and
- contract for services as necessary.

| Table 2. Department of Revenue Expenditures Under HB11-1247 | | |
|--|-------------------|--------------------|
| Cost Components | FY 2011-12 | FY 2012-13 |
| Personal Services | \$306,659 | \$765,938 |
| FTE | 5.2 | 14.7 |
| Operating Expenses and Capital Outlay | \$29,937 | \$57,232 |
| Administrative Expenses | \$29,992 | 353,431 |
| Legal Services (200 Hours @ \$73.37) | 0 | 14,674 |
| TOTAL | \$366,588 | \$1,191,275 |

Allocations. The bill requires the state treasurer to transfer the sum of the unredeemed refund values to the Department of Revenue for further allocation as noted in Table 1 on page 4. Unredeemed refund values are estimated to total \$62,432,500 for FY 2012-13. Of that amount, 10 percent will be transferred to the Recycling Resources Economic Opportunity Fund, 40 percent will be transferred to the State Education Fund, and the remaining 50 percent will be retained by the department to cover administrative costs and to provide recycling education.

Expenditures Not Included

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. The centrally appropriated costs subject to this policy are summarized in Table 3.

| Table 3. Expenditures Not Included Under HB11-1247* | | |
|--|-------------------|-------------------|
| Cost Components | FY 2011-12 | FY 2012-13 |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$36,920 | \$104,370 |
| Supplemental Employee Retirement Payments | 13,876 | 21,375 |
| TOTAL | \$50,796 | \$125,745 |

**More information is available at: <http://colorado.gov/fiscal.notes>*

The department does not have space to house the 7.0 FTE needed in the next two years in Taxpayer Services and Central Department Operations. While these employees will be accommodated in the short term, the department will require additional leased space on an ongoing basis.

Local Government Impact

The bill prohibits a county or local government from imposing or collecting a fee assessment on deposit beverage containers for the same purpose as that proposed in the bill. Counties are required to assist the Department of Revenue once the department deems that a redemption center is needed in an area.

The expected decrease in the amount of solid waste being delivered to county landfills will result in a corresponding decrease in the collection of solid waste user fees, collected as tipping fees. For purposes of this fiscal note this impact has not been estimated. For local governments, recycling incentives in the bill could result in savings through reduced trash and litter collection efforts at municipal parks and other municipal public facilities.

State Appropriations

In FY 2011-12, the Department of Revenue requires an appropriation of \$366,588 and 5.2 FTE from the Deposit Beverage Container Fund.

Departments Contacted

- | | |
|------------------------------|-------------------------------|
| Revenue | Public Health and Environment |
| State Auditor | Regulatory Agencies |
| Education | Local Affairs |
| Colorado Municipal League | Colorado Counties |
| Special District Association | |