

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 14-0516
Prime Sponsor(s): Rep. Tyler, Coram
 Sen. Todd, King

Date: April 16, 2014
Bill Status: House Transportation and Energy
Fiscal Analyst: Kristen Koehler (303-866-4918)

SHORT TITLE: UPDATE WASTE TIRE MANAGEMENT SYSTEM

| Fiscal Impact Summary* | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|---|----------------------------|-----------------|-----------------|----------------------|
| State Revenue | See State Revenue section. | | | (\$2,000,000) |
| Cash Funds | | | | (2,000,000) |
| State Expenditures | \$116,448 | \$47,329 | \$47,329 | (\$1,868,380) |
| General Fund | 51,621 | 0 | 0 | 0 |
| Cash Funds | 50,494 | 38,037 | 38,037 | (1,874,650) |
| Centrally Appropriated Costs** | 14,333 | 9,292 | 9,292 | 6,270 |
| FTE Position Change | 1.6 FTE | 1.0 FTE | 1.0 FTE | 0.7 FTE |
| Appropriation Required: \$102,115 - Multiple Agencies (FY 2014-15) | | | | |

* This summary shows changes from current law under the bill for each fiscal year.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

This bill repeals and reenacts the state's waste tire laws into a new part of the solid waste statutes and makes changes to the Waste Tire Program. The bill modifies the distribution of the \$1.50 waste tire fee, consolidates several cash funds and creates three new cash funds, and specifies how the moneys in each cash fund are to be used. Additionally, the bill reduces the waste tire fee to \$0.55 per tire beginning January 1, 2018, and repeals the End Users and Processors Rebate Program at that time. The Colorado Department of Public Health and Environment (CDPHE) is required to administer and collect the waste tire fee, among other duties in lieu of the DOR. New regulations are established for waste tire haulers, generators, processors, end users, collection facilities, mobile processors, used tire sellers, and waste tire monofills. Finally, the Waste Tire Advisory Committee is repealed.

Waste tire fee. The bill requires the Solid and Hazardous Waste Commission (commission) to set the waste tire fee at \$1.50 per tire or less; however, the fee is reduced to \$0.55 per tire on January 1, 2018.

Funds. Between July 1, 2014, and December 31, 2017, the \$1.50 per tire waste tire fee is distributed to the newly-created funds as follows:

- 65 percent to the End Users Fund;
- 30 percent to the Waste Tire Administration, Enforcement, and Cleanup Fund; and
- 5 percent to the Waste Tire Market Development Fund.

Beginning January 1, 2018, the waste tire fee is reduced to \$0.55 per tire and is distributed entirely to the Waste Tire Administration, Enforcement, and Cleanup Fund, and the other two funds are repealed. Appendix A displays the waste tire fee distribution under current law and under the bill.

Rebates. Rebates are available to end users, retailers who sell tire-derived products, and Colorado processors of waste tires who sell tire-derived products to out-of-state end users. The commission is required to set the monthly rebate amount, which is payable from the End Users Fund. The amount of the rebate cannot be more than \$80 per ton, in an amount that is: the same each month for each successive 12-month period; based on the monthly rolling average weight of waste tires submitted for a rebate during the previous 36-month period; and calculated to equalize but not exceed the amount of rebates paid with the anticipated income to the End Users Fund during each subsequent 12-month period. Additionally, the rules governing administration of the rebate must specify that, if the weight of the waste tires submitted for a rebate in any one month multiplied by the amount of the rebate exceeds the balance of the End Users Fund, the CDPHE will pay a reduced amount per ton that month; and the CDPHE must quarterly notify end users of the date on which the balance of the End Users Fund is anticipated to be insufficient to pay all of the rebates that were applied for. The End Users Fund and rebates made from the fund to end users and processors are repealed January 1, 2018.

State Revenue

For FY 2014-15 through FY 2016-17, this bill does not impact the amount of revenue collected from the waste tire fee. For FY 2017-18, waste tire fee revenue is reduced by about \$2.0 million, and beginning in FY 2018-19 and each year thereafter, revenue collected from the waste tire fee is reduced by about \$4.0 million per year.

Future reduced fee revenue impact. The bill does not impact the waste tire fee amount or revenue collected from the fee until January 1, 2018, when the waste tire fee is reduced from \$1.50 per tire to \$0.55 per tire. In FY 2011-12, \$5.8 million was collected from the fee, and in FY 2012-13, \$5.9 million was collected. Assuming a 1.7 percent annual increase in fee revenue collections, revenue collected from the fee under current law is projected to be approximately \$6.4 million in FY 2017-18.

Because the bill reduces the fee amount, revenue collected from the fee in FY 2017-18 will be about \$4.4 million, due to the effective date of the decrease. Beginning in FY 2018-19, revenue collected from the waste tire fee will be about \$2.4 million per year, which is a reduction in revenue of approximately \$4.0 million per year from the amount that would have been collected under current law at the \$1.50 per tire fee rate.

State Expenditures

In FY 2014-15, this bill is expected to increase state expenditures in the DOR by \$56,996 and 0.6 FTE, and expenditures in the CDPHE by \$59,452 and 1.0 FTE. For FY 2015-16, the bill increases expenditures in the CDPHE by \$55,083 and 1.0 FTE. Future state expenditures and workload are expected to decrease beginning in FY 2017-18, as described below.

Rebates and grants. For FY 2014-15, this bill redistributes the anticipated \$6.0 million in waste tire fee revenue to be spent in different program areas. The bill allocates 65 percent of waste tire fee revenue, or an estimated \$3.9 million, to the End Users Fund. Moneys in the fund must be used to provide monthly rebates to in-state end users, retailers who sell tire-derived products, and processor of Colorado waste tires who sell their tire-derived products to out-of-state end users. The bill allocates an estimated \$300,000, or 5 percent of fee revenue, to the Waste Tire Market Development Fund. Moneys provide some grant funding to end users for research and development, and to state agencies for implementation of education campaigns, among other things. The Waste Tire Administration, Enforcement, and Cleanup Fund receives 30 percent of fee revenue, or an estimated \$1.8 million beginning in FY 2014-15. Monies are to be used for collecting the fee, enforcement, financing occasional cleanup events, providing grants to law enforcement and other entities for supplies and equipment, providing training, developing educational programs for enforcement and prevention, and other activities and projects.

Overall, this bill will not change the total amount of state moneys expended on waste tire rebates and grants until FY 2017-18.

Department of Revenue. In FY 2014-15, the DOR will incur costs for the programming of the GenTax system to develop a one-time letter and process to notify businesses that remit the fee of the change; to configure the system to stop the printing and mailing of waste tire forms; to create a file containing all waste tire account information; to develop a process to send the waste tire file to the CDPHE; and to perform system testing. These activities will be performed by Fast Enterprises, the DOR's GenTax computer programming contractor, at a total one-time cost of \$34,000 General Fund (170 hours * \$200 per hour).

Beginning July 1, 2014, the Department of Revenue (DOR) will no longer collect and process the waste tire fee; however, due to the condensed time line by which businesses must be informed of and implement the change, it is expected that a portion of fees will still be submitted to the DOR after the effective date of the bill resulting in ongoing costs to process and correct misdirected submittals within the DOR.

Each month, approximately 2,400 accounts submit a return containing a waste tire fee. During the first month after the bill takes effect, it is estimated that about 40 percent of account holders will remit the fee to the DOR in error; the error rate will decline to 25 percent in the second month, and to about 15 percent in the third month. It takes approximately 25 minutes to respond to erroneous returns with a follow up letter, and an additional 25 minutes to return the fee to the account holder. As a result, for FY 2014-15, the DOR's Taxation Business Group will require an increase of 0.4 FTE Tax Examiner I to process rebates and notify account holders of the change in law. The DOR's Central Department Operations (CDO) will also incur costs for processing the erroneous fee submissions, requiring an additional 10 minutes per submission to complete. As a result, the CDO will require an increase of 0.2 FTE Tax Examiner I in FY 2014-15. The total cost for increased staff within the DOR is \$30,750 and 0.6 FTE in FY 2014-15 only. For FY 2014-15, the DOR is appropriated \$7,754 from the Waste Tire Fee Administration Cash Fund for the purposes of administering and collecting the fee. This amount has been applied to DOR personal services costs in FY 2014-15, resulting in an increase in General Fund expenditures of \$22,996. Table 1 shows the costs to the DOR.

| Table 1. Department of Revenue Expenditures Under HB 14-1352 | | | | |
|---|-------------------|-------------------|-------------------|-------------------|
| Cost Components | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
| Personal Services | \$17,051 | (\$7,754) | (\$7,754) | (\$7,754) |
| FTE | 0.6 FTE | - | - | - |
| Contract Services - GenTax Programming | \$34,000 | - | - | - |
| Operating and Capital Outlay Costs | \$570 | - | - | - |
| Centrally Appropriated Costs* | 5,375 | - | - | - |
| TOTAL | \$56,996 | (\$7,754) | (\$7,754) | (\$7,754) |

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

Department of Public Health and Environment (CDPHE). The bill relocates the administration and collection of the waste tire fee from the DOR to the CDPHE. The bill also adds new duties to the CDPHE for the administration and regulation of the waste tire program, which requires the department to:

- inspect tire retailers to determine if all fees are being collected;
- submit an annual report detailing certain waste tire information to the committees of the General Assembly having jurisdiction over transportation and public health, the Joint Budget Committee, and the commission;
- work with the Department of Public Safety (DPS) to develop a model fire prevention, training and firefighting plan; and
- work with the Department of Transportation (CDOT) to investigate and research the use of tire-derived aggregates in civil applications.

Beginning in FY 2014-15, these duties require an increase of 1.0 FTE Tax Examiner I in the CDPHE. It is assumed that these costs will be paid for using cash funds appropriated from the Waste Tire Administration, Enforcement, and Cleanup Fund. See Technical Note section of this fiscal note for more information.

In FY 2014-15, the bill repeals the Waste Tire Advisory Committee. Under current law, the CDPHE is required to provide staff support to the committee and per diem payments to committee members. The repeal of the committee will result in a reduction in per diem expenditures within the CDPHE of about \$3,240 per year. In addition, workload within the CDPHE will be reduced for no longer providing staff support to the committee.

Effective January 1, 2018, the bill repeals the End Users Fund and the monthly rebate program that is currently administered by the CDPHE to provide rebates to waste tire end users and processors. Beginning in FY 2017-18, this results in a decrease in administrative expenditures in the CDPHE of about 0.4 FTE and \$26,784 per year, prorated in FY 2017-18. The elimination of the rebate program will also reduce state expenditures for rebates issued to waste tire end users and processors by about \$3.9 million per year, prorated in the first year to a \$1.9 million reduction in expenditures.

Also effective January 1, 2018, is the repeal of the Waste Tire Market Development Fund and the requirements that the CDPHE use the fund to encourage waste tire market development. This will reduce administrative expenditures in the CDPHE by about 0.2 FTE and \$13,392 beginning in FY 2017-18, prorated in FY 2017-18. Table 2 shows the change in costs to the CDPHE as a result of the bill.

| Cost Components | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|------------------------------------|-------------------|-------------------|-------------------|-------------------|
| Personal Services | \$41,341 | \$41,341 | \$41,341 | \$28,939 |
| FTE | 1.0 FTE | 1.0 FTE | 1.0 FTE | 0.7 FTE |
| Travel - Site Visits | 3,500 | 3,500 | 3,500 | 3,500 |
| Operating and Capital Outlay Costs | 5,653 | 950 | 950 | 665 |
| Centrally Appropriated Costs* | 8,958 | 9,292 | 9,292 | 6,270 |
| TOTAL | \$59,452 | \$55,083 | \$55,083 | \$39,374 |

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

Department of Law. The bill requires the commission to promulgate rules and regulations for the implementation and enforcement of the waste tire program. As a result, the Department of Law may experience increased workload to assist with these activities. Any workload increase is expected to be minimal and does not require new appropriations.

Department of Transportation (CDOT). Beginning in FY 2014-15, the CDOT is required to work with the CDPHE to investigate and research the use of tire-derived aggregates in civil applications. The findings may be included in the CDPHE's annual report to the General Assembly. Collecting this data will increase the workload of the CDOT; however, this increase does not require new appropriations.

Department of Public Safety (DPS). Beginning in FY 2014-15, the DPS is required to work with the CDPHE to develop a model fire prevention, training, and firefighting plan. Creation of the model plan is expected to increase the workload of the DPS; however, this increase does not require new appropriations.

Department of Personnel and Administration (DPA). The DPA administers the Fleet Management Program and Motor Pool Services and replaces about 10,000 tires on the state's fleet vehicles each year. Beginning in FY 2018-19 and each year thereafter, the DPA will save about \$9,500 per year on waste tire fees ($\$1.50 - 0.55 = 0.95 \times 10,000$). Because the fee is adjusted halfway through FY 2017-18 fiscal year, the DPA will save about \$4,750 in waste tire fees that year.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

| Cost Components | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|----------------------------------|-------------------|-------------------|-------------------|-------------------|
| Employee Insurance | \$9,740 | \$6,087 | \$6,087 | \$4,260 |
| Supplemental Employee Retirement | 4,593 | 3,204 | 3,204 | 2,010 |
| TOTAL | \$14,333 | \$9,292 | \$9,292 | \$6,270 |

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

Local Government Impact

This bill impacts funds that support local government grants. Because the bill redistributes the waste tire fee revenue into new funds that have different purposes, it is expected that grant money available for Recycling Incentive grants and for Fire Prevention grants will decrease. However, it is expected that moneys available to local governments for Law Enforcement grants will increase under the bill. Additionally, money available for rebates will increase under the bill's new allocation formula.

Technical Note

This bill repeals six cash funds and creates three new cash funds related to the waste tire program. Under current law, at the end of each fiscal year, the unencumbered and unexpended balances of the Law Enforcement Grant Fund, the Waste Tire Market Development Fund, the Waste Tire Fire Prevention Fund (67 percent of funds transfer), and the Waste Tire Cleanup Fund (67 percent transfers) are transferred to the Processors and End Users Fund. Under the bill, these funds will be repealed, however, balances will remain in the Waste Tire Fire Prevention Fund, the Waste Tire Cleanup Fund, and in the Processors and End Users Fund. The bill does not include a mechanism for transferring the balances of the repealed funds into the newly created funds; however, this fiscal note assumes that this issue can be addressed through amendment, making the moneys in the repealed funds available to the program via the newly created funds.

Effective Date

The bill takes effect July 1, 2014.

State Appropriations

For FY 2014-15, the Department of Revenue requires a General Fund appropriation of \$51,621 and an allocation of 0.6 FTE.

For FY 2014-15, the Department of Public Health and Environment requires a cash fund appropriation of \$50,494 and an allocation of 1.0 FTE from the Waste Tire Administration, Enforcement, and Cleanup Fund.

As shown in Appendix A, certain cash funds will no longer exist after July 1, 2014; therefore, FY 2014-15 appropriations should be adjusted to reflect the change in cash funds.

State and Local Government Contacts

Public Health and Environment
Personnel and Administration
Local Affairs
Public Safety
Special Districts

Judicial
Transportation
Law
Cities and Counties

Appendix A. Waste Tire Fee Revenue Distributions Under HB 14-1352 (Assumes \$6.0 million in revenue)

| Fund | Distribution Under Current Law FY 2013-14 | HB 14-1352 distribution July 1, 2014 - Dec. 31, 2017 | Distribution on and after January 1, 2018 |
|---|---|---|---|
| Waste Tire Fee Administration Cash Fund <i>Section 25-17-202 (3)(c), C.R.S.</i> | 1.67% of total fee revenue prior to fund distributions \$100,200 | Repealed July 1, 2014. | N/A |
| Waste Tire Cleanup Fund <i>Section 25-17-202.6 (1), C.R.S.</i> Funds multiple programs including local government grants for clean up programs and public projects that use waste tires. | 39.66% \$2,339,861 | Repealed July 1, 2014. | N/A |
| Waste Tire Fire Prevention Fund Provides training to fire departments in handling waste tire fires and purchases equipment, training for law enforcement and health departments in waste tire enforcement. | 8.0% \$471,984 <i>Section 25-17-202.8 (1), C.R.S.</i> | Repealed July 1, 2014. | N/A |
| Law Enforcement Grant Fund Funds grants and contracts for training state and local agencies to enforce waste tire disposal. | 8.67% \$511,513 <i>Section 25-17-207 (4), C.R.S.</i> | Repealed July 1, 2014. | N/A |
| Processors and End Users Fund Funds rebates to waste tire end users and processors. | 30.33% \$1,789,409 <i>Section 25-17-202.5 (1), C.R.S.</i> | Repealed July 1, 2014. | N/A |
| Innovative Higher Education Research Fund Funds higher education research initiatives. | 6.67% \$393,517 <i>Section 23-19.7-104, C.R.S.</i> | Fund repeals July 1, 2014 under current law. | N/A |
| Waste Tire Market Development Fund Funds activities to encourage waste tire market development. | 6.67% \$393,517 <i>Section 25-17-202.9 (1), C.R.S.</i> | 5.0% \$300,000 | Repealed January 1, 2018. |
| End Users Fund (created by bill) | N/A | 65.0% \$3,900,000 | Repealed January 1, 2018. |
| Waste Tire Administration, Enforcement, and Cleanup Fund (created by bill) | N/A | 30.0% \$1,800,000 | 100% of revenue collected from the 0.55 cent per tire waste tire fee \$2,400,000 |