

STORAGE NAME: h1849a.ep

DATE: March 31, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
ANALYSIS**

BILL #: HB 1849

RELATING TO: Lead-acid battery fee

SPONSOR(S): Representative Wallace

COMPANION BILL(S): SB 1434 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ENVIRONMENTAL PROTECTION YEAS 9 NAYS 0
 - (2) FINANCE AND TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

The bill would authorize the Department of Environmental Protection (DEP) to designate at least 15 percent of the lead-acid battery fees collected annually for grants to fund assessment and remediation of sites contaminated by disposal of lead-acid batteries and to provide incentives for recycling facilities for such batteries and other lead-containing waste products.

The bill would take effect July 1, 1999.

On March 30, 1999, the Committee on Environmental Protection adopted a strike everything amendment that is traveling with the bill. Please see "Amendments or Committee Substitute Changes" section.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The lead-acid battery fee was established through the passage of HB 1671 (see Chapter 88-393, Laws of Florida (L.O.F.)) in 1988. The establishment of the original \$1.00 battery fee (see s. 403.7185, F.S.) was done to address two concerns. First, a 1987 analysis of funding for the Water Quality Assurance Trust Fund (WQATF) indicated that expenditures would exceed revenues in fiscal year 1987-88. Second, the former Department of Environmental Regulation (DER) indicated that contamination of sites by several other types of materials, including lead-acid batteries, were generating little or no revenue to the fund while representing a significant portion of fund expenditures. Because of this, the DER recommended expanding the tax base.

Chapter 89-171, L.O.F., increased the fee to \$1.50 for each battery.

Receipts from the lead-acid battery fee are deposited in the WQATF. Section 376.307(4)(b), F.S., requires the DEP to disburse moneys in the fund to a priority list of activities. These activities, in descending order, are:

1. Emergency actions to protect public health, safety, and welfare.
2. Previous obligations.
3. Restoration or replacement of contaminated private potable wells or water systems.
4. Response actions carried out pursuant to federal law.
5. Other response actions carried out or authorized by the DEP.
6. Other authorized activities subject to the availability of funds.

The lead-acid battery fee is one of six revenue sources for the WQATF. Other sources are fees levied on dry-cleaning chemicals, motor oil lubricants, ammonia, gasoline, and chlorine pesticides. Historically, the battery fee accounts for approximately 29% of total revenues to the WQATF.

Based on data from the past four years the average annual collection from the lead-acid battery fee is \$8.1 million. Estimated collections for fiscal year 1998-99 are \$9.35 million.

B. EFFECT OF PROPOSED CHANGES:

The bill would amend s. 403.7185, F.S., to require at least 15 percent of revenues collected annually from the lead-acid battery fees be designated by the DEP for use as grant moneys to provide funding for contamination assessment and remediation of sites contaminated by the disposal of lead-acid batteries. In addition, these funds shall also be used to provide incentives to assist recycling facilities to provide a convenient opportunity for safe recycling and proper disposal of lead-acid batteries and other waste products containing lead.

Section 403.7185, F.S., establishes the lead-acid battery fee and provides for its collection and administration by the Department of Revenue.

Based on fiscal year 1997-98 collections of \$8.7 million at least \$1.3 million would be dedicated to the purposes described above.

The bill also provides legislative intent which:

- recognizes the need for providing a capability for responding to the recycling, proper disposal, and remediation of waste products generated by users of lead-containing products within this state; and
- provides that incentives may be made for funding public or private activities that are innovative or necessary to maintain environmental compliance with federal and state regulatory requirements.

The bill would take effect on July 1, 1999.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The DEP would be directed to create a grant program to fund contamination assessment and remediation activities for those sites contaminated by lead-acid batteries. The department is also directed to create an incentive program to encourage recycling and proper disposal of the batteries and other lead-containing products.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 403.7185, F.S.

E. SECTION-BY-SECTION ANALYSIS:

See "Effect of Purposed Changes"

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

Beginning in fiscal year 1999-00 the DEP would dedicate at least 15 percent of the revenue received from the \$1.50 fee on lead acid batteries to fund a grant program for performing contamination assessment and remediation activities. In addition incentives are to be provided to encourage recycling and disposal of batteries and other lead-containing products.

Based on the projection that \$9.35 million will be collected during fiscal year 1998-99 the 15 percent would amount to \$1.39 million and would have an expected growth of about 4 percent annually.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Private sector concerns that own contaminated sites or that operate recycling or waste disposal activities would now be eligible for funding assistance. Contaminated sites would receive funds to perform assessments and remediation activities. In addition, those engaged in recycling or disposal of lead-acid batteries or related lead-containing products would benefit under the incentive program.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. **FISCAL COMMENTS:**

According to the DEP, the WQATF has a projected deficit of \$1 million for fiscal year 1998-99 and that any revenue removed from the trust fund will cause severe harm. Any reductions within this fund will reduce the ability of the DEP to undertake water restoration programs and site rehabilitation activities at hazardous waste sites. This additional reduction would hamper the DEP's ability to provide ongoing public health protection, particularly in the event of a catastrophic event involving a community's drinking water sources.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

The bill does not require counties or municipalities to expend funds or take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The bill does not reduce the percentage of state taxes shared with counties and municipalities.

V. COMMENTS:

The DEP does not support the bill in this form. They do support the concept of offering incentive grants to recycling facilities which could be used to increase the rate of recycling of lead-acid batteries and other lead-containing products.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 30, 1999, the Committee on Environmental Protection adopted a strike everything amendment that is traveling with the bill. The amendment substantially changed the bill.

The requirement that at least 15 percent of the funds deposited into the Water Quality Assurance Trust Fund was removed. The amendment provides for a \$400,000 appropriation from the Solid Waste Management Trust Fund for fiscal year 1999-00 to fund the grants authorized by the act. In addition, the department is given the authority to request this annual funding through fiscal year 2004-2005.

The funds are to be used as grants to Florida based businesses that recycle lead-acid batteries and other lead-containing materials. The grants may be used for research and development; innovative technologies; equipment to process and recycle; and for establishing an infrastructure for collection and transport, as they pertain to recycling or recovering lead-acid batteries and lead-containing materials.

An additional provision of the amendment directs the DEP to work with the Department of Management Services to implement a pilot program, among state agencies, to collect lead-containing products. Further, local governments are encouraged to establish recycling and collection programs for publicly and privately owned lead-containing products.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

Wayne S. Kiger

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