

STORAGE NAME: h0269a.ep
DATE: February 18, 1999

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

BILL #: HB 269

RELATING TO: Lead - acid battery fee

SPONSOR(S): Representative Albright

COMPANION BILL(S): SB 1122 (i) by Senator Silver

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

- (1) ENVIRONMENTAL PROTECTION YEAS 13 NAYS 0
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

HB 269 amends ss. 403.717 and 403.7185, F.S., to specify that the \$1.50 lead-acid battery fee currently assessed on every retail sale of these batteries shall only be imposed on the sale of new or remanufactured batteries and may only be imposed one time on any battery.

The impact of the bill would be to remove requirements for the collection and remittance of the fee from businesses that deal with the sale of reconditioned batteries and those batteries that are not considered new or remanufactured. An example of the latter is used car dealers.

The language in this bill was introduced during the 1997 Legislative Session and carried over to the 1998 Legislative Session where it died in the General Government Appropriations Committee. The Revenue Estimating Committee estimated then that the bill would have an annual negative fiscal impact of \$700,000 to the Water Quality Assurance Trust Fund, \$35,000 to the Department of Revenue, and \$50,000 to the General Revenue Fund. The bill is currently scheduled for another review by the Revenue Estimating Committee on February 19th.

The bill provides that the act will take effect October 1, 1999.

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 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 new or remanufactured lead-acid battery sold at retail within this state.

Receipts from the lead-acid battery fee are deposited in the WQATF. Section 376.307(4)(b), F.S., requires the Department of Environmental Protection (DEP) to disburse moneys in the WQATF according 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 DEP; and (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 accounted for approximately 29% of total revenues to the WQATF.

In 1991, the Legislature modified the application of the battery fee. Chapter 91-132, L.O.F., amended the statutes to strike language that the fee be applied to "new or remanufactured" lead-acid batteries. The effect was that the fee would be levied on each lead-acid battery sold at retail within the state. Projections indicated that this change would increase battery fee revenues by \$600,000. The projections were accurate. Specific data that reflect what fees are collected from new batteries versus remanufactured or resold batteries are not maintained by the Department of Revenue.

B. EFFECT OF PROPOSED CHANGES:

HB 269 modifies the current requirements for the application of the battery fee by directing that it only be assessed on the retail sale of new or remanufactured batteries and may only be assessed once on a battery.

The impact of the bill would be to remove the requirement that the battery fee be collected on every additional sale of the same battery. This primarily impacts those businesses that deal with used batteries that are being resold for a second time. This market predominately consists of those businesses selling used automobiles.

The DEP staff indicates that the past problems with battery disposal have been corrected due to the development of successful markets for recycling of lead and other components derived from the batteries. The recycling rate for lead acid batteries is repeatedly estimated by the U.S. Environmental Protection Agency and the battery industry to exceed 90%. No estimates of the recycling rate in Florida are known.

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?

No.

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

No.

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

No.

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?

No.

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

No.

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

No.

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

No, the bill does not reduce the rate, however, the bill would reduce battery fee revenues by an estimated \$700,000 annually.

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

No.

3. Personal Responsibility:

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

No.

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

No.

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:

ss. 403.717 and 403.7185, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 403.717, F.S., to change the definition of "lead-acid battery" to reflect that the fee only be applied to lead-acid batteries when sold "new".

Section 2: Amends s. 403.7185, F.S., to provide for the application of the fee to the sale of a new or remanufactured battery occur only once.

Section 3: Provides that the act shall take effect October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

	<u>First Year</u>	<u>Subsequent Years</u>
Water Quality Assurance Trust Fund	(\$423,000)	(\$630,000)
Dept. of Revenue	(14,000)	(21,000)
General Revenue Fund	<u>(33,000)</u>	<u>(49,000)</u>
Total	(\$470,000)	(\$700,000)

These are the estimates provided by a 1996 Revenue Impact Conference. The bill is currently scheduled for another review on February 19th by the Revenue Estimating Conference.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See A.2 "Recurring Effects"

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Businesses that currently collect and remit the fee for batteries that are not considered "new or remanufactured" would realize a savings associated with their administrative costs of collecting the fee.

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

None.

D. FISCAL COMMENTS:

None.

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 spend funds or to 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 a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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