

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/SB 786 Tires & Batteries/Govt. Entities/Fee  
**SPONSOR(S):** General Government Appropriations, Clary  
**TIED BILLS:** **IDEN./SIM. BILLS:** HB 109 CS

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Resources Council	8 Y, 0 N	Kliner	Hamby
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

Regarding the retail sale of tires and batteries to governmental entities, the bill amends sections 403.718 and 403.7185, F.S., to clarify that the \$1 per tire waste fee and the \$1.50 lead-acid battery fee sold at retail sale includes governmental entities.

The bill has an effective date of July 1, 2005.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Limited government. The bill clarifies that governmental entities are to be assessed for the fees for waste tire and lead-acid battery products at the retail sales.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### **General**

The Department of Environmental Protection (DEP) regulates the collection, storage, transportation, and disposal of solid waste that, due to the quantity, concentration, or physical characteristics, may be hazardous to humans and the environment, through Part IV of Chapter 403, Florida Statutes. Two such waste products include motor vehicle tires and lead-acid batteries.

###### **Vehicle Tires**

The DEP's Waste Tire Management Program has several components: a regulatory program that addresses how waste tires can be moved, stored, processed, used, or disposed of; an abatement or cleanup program that assists in cleaning up illegal tire piles; and a market development program that works with potential end users for waste tires. In addition, there is a waste tire grant program that distributes funding to counties to assist them in local waste tire management efforts. "Waste tire" means a tire that has been removed from a motor vehicle and has not been re-treaded or re-grooved. "Waste tire" includes used tires and processed tires.

###### **Lead-Acid Batteries**

According to the DEP's Annual Hazardous Waste Management Needs Assessment Report dated January 1, 2003, lead-acid batteries contain a liquid acid electrolyte and are prohibited from disposal in landfills or municipal waste combustors, s. 403.708, Florida Statutes. Battery retailers are also required to take back spent batteries as trade-ins. In addition, some scrap dealers buy back spent lead-acid batteries, and county programs accept these batteries at solid waste/household hazardous waste facilities and collections. A mature, close-looped recycling infrastructure that is driven by economic incentives within the lead-acid battery industry and convenient collection locations ensures that nearly all lead and plastic casings that are reclaimed from recycled batteries are used to make new batteries. According to the Battery Council International website "...the typical new lead-acid battery contains 60 to 80 percent recycled lead and plastic."<sup>1</sup> The recycling rate for vehicular lead-acid (VLA) batteries has been estimated by the U.S. Environmental Protection Agency to be nearly 97 percent nationally since 2000.

Section 403.7185, Florida Statutes, requires retail sellers of batteries to pay a \$1.50 fee on the retail sale of any new or remanufactured lead acid battery sold. The fee which is passed on to the user is then remitted to the DOR. The DOR deducts its administrative expenses and then deposits the remainder into the state's Water Quality Assurance Trust Fund.

According to a representative from the Department of Management Services (DMS), the state contracts with manufacturers to meet the state's tire and battery replacement needs. The cost of fees, such as the waste tire and waste battery fee, are figured into the contract's terms. Therefore, the tire and battery sellers are responsible for the disposal fee that is submitted to the DOR, which is not paid by the state entity when the tires or batteries are replaced. In a sense, the fee is paid twice; once by the state in its contract with the manufacturer, and again by the retail seller, however, the only monies that

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<sup>1</sup> <http://www.batterycouncil.org/recycling.html>

are sent to the Trust Funds are those paid in by the retail sellers. According to the DMS representative, some sellers have charged the fee anyway, which resulted in a "double payment" of that particular fee.

### **Effect of Proposed Change**

The bill amends sections 403.718 and 403.7185, F.S., to clarify that the \$1 per tire waste fee and the \$1.50 lead-acid battery fee sold at retail sale includes governmental entities.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 403.718, Florida Statutes, relating to waste tire fees.

Section 2: Amends s. 403.7185, Florida Statutes, relating to lead-acid battery fees.

Section 3: Provides that the amendments are clarifying and remedial in nature, and that any dealer who has remitted fee on retail sales to governmental entities is not eligible of a refund of those fees.

Section 4: Provides an effective date of July 1, 2005.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

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

The bill clarifies that governmental entities are to be assessed for the fees for waste tire and lead-acid battery products at the retail sales. The bill could have a positive fiscal impact to retail sellers of motor vehicle tires and lead-acid batteries. These entities currently are required to pay both tire and battery fees by the Department of Revenue for any purchases made by local governments.

#### D. FISCAL COMMENTS:

Governmental entities would be required to pay the \$1 per tire fee on the retail sale of each new motor vehicle tire sold in Florida. Also, governmental entities would be required to pay the \$1.50 fee on the retail sale of new or remanufactured batteries sold in Florida. Data is not available to determine the level of governmental entities currently paying the fees and those that do not pay the fees.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The mandates provision of the State Constitution is not applicable because: this bill does not require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

No additional rulemaking authority is required to implement the provisions of this bill.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

CS/SB 786 and CS/HB 109 (currently in the State Resources Council) are identical.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

None.