



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date:	<b>05/15/13</b>	Bill No:	<b><a href="#">Senate Bill 11</a></b>
Tax Program:	<b>California Tire Fee</b>	Author:	<b>Pavley &amp; Cannella</b>
Sponsor:	<b>See Comment 1</b>	Code Sections:	<b>PRC 42885 &amp; 42889</b>
Related Bills:	<b>AB 8 (Perea &amp; Skinner)</b>	Effective Date:	<b>Upon enactment</b>

***This analysis only addresses the portion of the bill that impacts the Board of Equalization (BOE)***

**BILL SUMMARY**

Among other provisions, this bill increases the California tire fee by \$0.75, to \$1.50 per tire from January 1, 2015, until January 1, 2024. Without further legislation, the rate is scheduled to be reduced from \$1.75 to \$0.75 per tire beginning January 1, 2015.

**Summary of Amendments**

Since the previous analysis, this bill was amended with changes that do not impact the BOE.

**ANALYSIS**

**CURRENT LAW**

Public Resources Code (PRC) Section 42885 imposes a California tire fee of \$1.75 per tire on every person who purchases a new tire. Beginning January 1, 2015, the tire fee is reduced to \$0.75 per tire.

Retailers collect the tire fee from the purchaser at the time of sale. The retailer is allowed a collection cost reimbursement of 1.5% of the total tire fees collected. The remaining fees are remitted to the BOE for deposit in the California Tire Recycling Management Fund. At the same time the tire fee drops to \$0.75, the retailer's reimbursement rate is increased to 3% beginning January 1, 2015.

Presently, the funds in the California Tire Recycling Management Fund are split between the Department of Resources Recycling and Recovery (CalRecycle) and the State Air Resources Board (ARB); approximately 60% to the former and 40% to the latter. PRC Section 42889 requires the BOE to transfer \$0.75 of the \$1.75 per tire fee to the ARB administered Air Pollution Control Fund. The annual Budget Act appropriates the remainder to CalRecycle. Beginning January 1, 2015, when the tire fee is reduced to \$0.75, no portion of the tire fee funds collected will be transferred to the Air Pollution Control Fund.

The BOE administers the California tire fee on behalf of CalRecycle and ARB. The Fee Collection Procedures Law (FCPL) governs the BOE's collection function<sup>1</sup>.

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<sup>1</sup> Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code.

***This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position***

**PROPOSED LAW**

This bill amends PRC Section 42885 to set the California tire fee at \$1.50 per tire beginning January 1, 2015 until January 1, 2024. The bill also amends PRC 42889, which distributes \$0.75 to the Air Pollution Control Fund until January 1, 2024.

The proposed law also increases the fee from \$0.75 to \$1.50 per tire on January 1, 2015, and requires the BOE to continue transfers of \$0.75 per tire to the Air Pollution Control Fund until January 1, 2024.

BOE functions are not affected by other provisions in the bill. Unrelated provisions include air quality improvement projects, clean transportation technologies and alternative fuel programs.

This bill is effective immediately, but the tire fee rate change is operative on January 1, 2015.

**BACKGROUND**

In 2006, the Legislature passed a budget trailer bill<sup>2</sup> that implemented the Resources and Environmental Protection Budget. The bill maintained the fee at \$1.75 per tire, and it also continued the \$0.75 per tire transfer to the Air Pollution Control Fund. Without that budget trailer bill, the fee rate was scheduled to be reduced from \$1.75 to \$1.50, operative January 1, 2007, to January 1, 2015, and the transfer to the Air Pollution Control Fund would have been reduced from \$0.75 to \$0.50 per tire.<sup>3</sup>

**COMMENTS**

- 1. Sponsor and Purpose.** This bill is sponsored by CALSTART, California Air Pollution Control Officers Association, and the American Lung Association. The purpose is to extend the funding sources for air quality improvement projects.
- 2. The May 15, 2013 amendments** do not affect provisions related to the BOE.
- 3. The BOE was already anticipating a rate change in the tire fee.** As explained, without further legislation, the rate is schedule to be reduced from \$1.75 to \$0.75 per tire beginning January 1, 2015. This bill changes the tire fee from the current rate of \$1.75 to \$1.50 from January 1, 2015, to January 1, 2024. BOE staff does not foresee administrative difficulty with a fee rate change. A fee rate change would not occur until January 1, 2015, which provides the BOE, the affected industry, and feepayers with sufficient time to prepare for the rate change.
- 4. Suggested amendment provides a direct appropriation to the BOE and eliminates the 3% cap on reimbursements.** Existing PRC Section 42885 requires that the BOE be “reimbursed” for its costs of administering the tire fee program. However, the BOE administers the program without a direct appropriation to fund its costs. Thus, BOE staff suggests amending the bill to provide for a direct appropriation to fund BOE’s costs of administering the tire fee program. We also recommend deleting the 3% cap on BOE cost reimbursement since it could result in a shortfall if BOE’s administrative costs exceed the reimbursement rate.

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<sup>2</sup> AB 1803 (Ch. 77, Stats. 2006).

<sup>3</sup> AB 923 (Ch. 707, Stats. 2004); rates in effect prior to AB 1803.

Suggested amendments require funds be appropriated to pay the costs associated with collection, refunds, and audits, or an amount otherwise specified in the annual Budget Act.

- 5. Related bills.** AB 8 (Perea & Skinner), among other things, extends the current \$1.75 per tire rate until January 1, 2024.

**COST ESTIMATE**

The fee change results in costs to conduct the following activities: issue notices to affected retailers and feepayers; answer inquiries; reconcile and verify returns; conduct audits; and issue billings. A cost estimate of this workload is pending.

The BOE expects to continue to receive reimbursement for its current expenses according to contracts with CalRecycle and ARB, however, the BOE would prefer a direct appropriation to administer this program. Contracts are effective until the end of the 2012-13 fiscal year (FY). Contract negotiations are currently under way to address ongoing costs.

**REVENUE ESTIMATE**

**BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

Preliminary BOE statistics indicate tire fee revenue to be \$49 million in FY 2011-12, an increase of about 2% from the previous fiscal year. Taking FY 2011-12 as our basis and using light vehicle sales forecast from Global Insight, a national economic forecasting firm, we estimate FY 2015-16 tire fee revenues under existing law to be \$25 million (this is at the \$0.75 rate that is scheduled to take effect January 1, 2015). Under this bill, we estimate FY 2015-16 tire fee revenues to be \$51 million (at the \$1.50 rate).

**REVENUE SUMMARY**

The following table starts with the first full year affected (FY 2015-16) and depicts the revenue impact:

	<b>Revenue Impact</b>	
	<i>(In Millions)</i>	
	Existing Law \$0.75 per tire	Proposed Law \$1.50 per tire
	_____	_____
FY 2015-16	\$25	\$51
FY 2016-17	\$26	\$52

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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**PROPOSED AMENDMENTS SB 11**

As Amended 05/15/13

Prepared by the State Board of Equalization

**SEC. 26.** *Section 42882 of the Public Resources Code is amended to read:*

~~42882. In carrying out this chapter, the board may solicit and use any and all expertise available in other state agencies, including, but not limited to, the State Board of Equalization, and, where an existing state agency performs functions of a similar nature to the board's functions, the board may contract with, or cooperate with that agency in carrying out this chapter. If the board contracts with the State Board of Equalization to collect the fee imposed in Section 42885, †The State Board of Equalization may shall collect that the fee imposed in Section 42885 pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).~~

**SEC. 27.** Section 42885 of the Public Resources Code, as amended by Section 55 of Chapter 77 of the Statutes of 2006, is amended to read:

42885. (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) Before January 1, 2015, a person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and seventy-five cents (\$1.75) per tire.

(2) On and after January 1, 2015, a person who purchases a new tire, as defined in subdivision ~~(g)~~(f), shall pay a California tire fee of one dollar and fifty cents (\$1.50) per tire.

(3) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(4) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 11/2 percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

~~(c) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.~~

~~(d)~~ The California tire fee imposed pursuant to subdivision (b) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

~~(e)~~ (d) A person or business who knowingly, or with reckless disregard, makes a false statement or representation in a document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

(f) ~~(e)~~ (d) In addition to the civil penalty that may be imposed pursuant to subdivision ~~(e)~~(d), the board may impose an administrative penalty in an amount not to exceed five thousand dollars (\$5,000) for each violation of a separate provision or, for

continuing violations, for each day that the violation continues, on a person who intentionally or negligently violates a permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

~~(g)~~ (f) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

~~(h)~~ (g) The California tire fee shall not be imposed on a tire sold with, or sold separately for use on, any of the following:

(1) A self-propelled wheelchair.

(2) A motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) A vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person's physical disability, is otherwise unable to move about as a pedestrian.

~~(i)~~ (h) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 28. Section 42885 of the Public Resources Code, as added by Section 13.5 of Chapter 707 of the Statutes of 2004, is amended to read:

42885. (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) Every person who purchases a new tire, as defined in subdivision ~~(g)~~(f), shall pay a California tire fee of seventy-five cents (\$0.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 3 percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

~~(c) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.~~

~~(d)~~ (e) The California tire fee imposed pursuant to subdivision ~~(a)~~(b) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

~~(e)~~ (d) Any person or business who knowingly, or with reckless disregard, makes any false statement or representation in any document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in

a civil action and shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

(f) ~~(e)~~ In addition to the civil penalty that may be imposed pursuant to subdivision ~~(e)~~~~(d)~~, the board may impose an administrative penalty in an amount not to exceed five thousand dollars (\$5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

~~(g)~~ (f) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

~~(h)~~ (g) The California tire fee may not be imposed on any tire sold with, or sold separately for use on, any of the following:

(1) Any self-propelled wheelchair.

(2) Any motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) Any vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person's physical disability, is otherwise unable to move about as a pedestrian.

~~(i)~~ (h) This section shall become operative on January 1, 2024.

SEC. 29. Section 42889 of the Public Resources Code, as amended by Section 3 of Chapter 333 of the Statutes of 2009, is amended to read:

42889. (a) Commencing January 1, 2005, of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents (\$0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.

(b) The remaining moneys collected pursuant to Section 42885 shall be used to fund the waste tire program, and shall be appropriated to the board and the State Board of Equalization, in the annual Budget Act in a manner consistent with the five-year plan adopted and updated by the board. These moneys shall be expended for the payment of refunds under this chapter and for the following purposes:

(1) To pay the administrative overhead cost of this chapter, not to exceed 6 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(2) To the State Board of Equalization to pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, ~~not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (c) of Section 42885 or an amount otherwise specified in the Budget Act.~~

(3) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(4) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the board designates a local entity for that purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(5) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the board. Not less than six million five hundred thousand dollars (\$6,500,000) shall be expended by the board during each of the following fiscal years for this purpose: 2001-02 to 2006-07, inclusive.

(6) To make studies and conduct research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(7) To assist in developing markets and new technologies for used tires and waste tires. The board's expenditure of funds for purposes of this subdivision shall reflect the priorities for waste management practices specified in subdivision (a) of Section 40051.

(8) To pay the costs associated with implementing and operating a waste tire and used tire hauler program and manifest system pursuant to Chapter 19 (commencing with Section 42950).

(9) To pay the costs to create and maintain an emergency reserve, which shall not exceed one million dollars (\$1,000,000).

(10) To pay the costs of cleanup, abatement, or other remedial action related to the disposal of waste tires in implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100) of Part 7.

(11) To fund border region activities specified in paragraph (8) of subdivision (b) of Section 42885.5.

(c) This section shall remain in effect only until January 1, 2024 , and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2024 , deletes or extends that date.

SEC. 30. Section 42889 of the Public Resources Code, as amended by Section 4 of Chapter 333 of the Statutes of 2009, is amended to read:

42889. Funding for the waste tire program shall be appropriated to the board and the State Board of Equalization, in the annual Budget Act. The moneys in the fund shall be expended for the payment of refunds under this chapter and for the following purposes:

(a) To pay the administrative overhead cost of this chapter, not to exceed 5 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(b) To the State Board of Equalization to pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, ~~not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (b) of Section 42885~~ or an amount otherwise specified in the annual Budget Act.

(c) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(d) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the board designates a local entity for that purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(e) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the board. Not less than six million five hundred thousand dollars (\$6,500,000) shall be expended by the board during each of the following fiscal years for this purpose: 2001-02 to 2006-07, inclusive.

(f) To fund border region activities specified in paragraph (8) of subdivision (b) of Section 42885.5.

(g) This section shall become operative on January 1, 2024.