



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

DRAFT

Date:	12/03/12	Bill No:	<u>Assembly Bill 8</u>
Tax Program:	California Tire Fee	Author:	Perea & Skinner
Sponsor:	See Comment 1	Code Sections:	PRC 42885 & 42889
Related Bills:	Senate Bill 11 (Pavley)	Effective Date:	01/01/14

This analysis will only address those provisions that impact the State Board of Equalization (BOE)

BILL SUMMARY

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

ANALYSIS

CURRENT LAW

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

Retailers are required to collect the tire fee from the purchaser at the time of sale. A retailer may deduct 1.5% of the total tire fees collected as reimbursement for costs of fee collection and remit the remaining fees to the BOE for deposit in the California Tire Recycling Management Fund. The percentage of reimbursement for retailers' costs of fee collection will be raised to 3% beginning January 1, 2015.

PRC Section 42889 requires the BOE to transfer seventy-five cents (\$0.75) of the fee per tire to the Air Pollution Control Fund, administered by the State Air Resources Board (ARB). The annual Budget Act appropriates the remainder in the California Tire Recycling Management Fund to the Department of Resources Recycling and Recovery (CalRecycle). The funding for the waste tire program will only be appropriated to CalRecycle on and after January 1, 2015.

The BOE administers and collects the California tire fee on behalf of CalRecycle and ARB in accordance with the Fee Collection Procedures Law.

PROPOSED LAW

This bill amends PRC Sections 42885 to set the California tire fee at one dollar and fifty cents (\$1.50) per tire beginning January 1, 2015 until January 1, 2024. PRC 42889 is amended to maintain the distribution of seventy-five cents (\$0.75) of the fee per tire to the Air Pollution Control Fund until January 1, 2024.

The fee is currently scheduled to decrease to \$0.75 per tire on January 1, 2015, eliminating the transfers to the Air Pollution Control Fund. If this bill passes, the rate changes from \$1.75 to \$1.50 per tire on January 1, 2015, and the BOE will continue to transfer \$0.75 per tire to the Air Pollution Control Fund until January 1, 2024.

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

Additional provisions in the bill, such as air quality improvement projects, clean transportation technologies and alternative fuel programs, do not affect BOE functions.

This bill is effective January 1, 2014.

BACKGROUND

In 2006 the Legislature passed AB 1803 (Ch. 77, Stats. 2006), a budget trailer bill that implemented the Resources and Environmental Protection Budget. The bill maintained the tire fee at \$1.75 per tire until January 1, 2015, and provided a substantial and long-term funding source to the ARB for air pollution reduction programs and projects. At that time, PRC Section 42885 imposed a tire fee of \$1.75 per tire, as of January 1, 2005, on every person who purchased a new tire. The rate was scheduled to be reduced to \$1.50 per tire as of January 1, 2007, and to remain at that rate until January 1, 2015.

COMMENTS

- 1. Sponsor and Purpose.** This bill is co-sponsored by CALSTART, California Air Pollution Control Officers Association, and the American Lung Association to extend the funding sources for air quality improvement projects.
- 2. This bill changes the fee from the current rate of \$1.75 to \$1.50 per tire from January 1, 2015 to January 1, 2024.** The increase in the California tire fee would not create administrative difficulties. The fee would not change until January 1, 2015, which would provide the BOE, the affected industry, and feepayers with sufficient time to prepare for the rate change.
- 3. Amendment suggested to provide for a direct appropriation of funding.** Existing PRC Section 422885 dictates that the BOE be “reimbursed” for its cost of administering the tire fee program. However, the BOE administers the program without first having a direct appropriation to fund its costs. Instead, the reimbursement is capped at 3 percent of the total annual revenue deposited in the fund, which could result in a shortfall if the BOE’s costs of administration exceed the reimbursement rate.

Attached is a suggested amendment to require that funds be appropriated to pay the costs associated with collections, refunds, and auditing, not to exceed 3 percent of the total revenue deposited in the fund, or an amount otherwise specified in the annual Budget Act. **Related bills.** SB 11 (Pavely & Rubio) contains identical provisions related to the California Tire Fee.

COST ESTIMATE

The fee change will result in costs incurred to issue notices to affected retailers and feepayers, answer inquiries, reconcile and verify returns, conduct audits, and issue billings.

The BOE expects to continue to receive reimbursement for its expenses according to contracts with CalRecycle and ARB. Current contracts are effective until the end of the fiscal year (FY) 2012-13.

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 takes 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:

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

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PROPOSED AMENDMENTS AB 8
As Introduced 12/03/12
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. 26.~~ 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), 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 1 1/2 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)~~ In addition to the civil penalty that may be imposed pursuant to subdivision (e), 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. ~~27~~ 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), 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), 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. ~~28~~ 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

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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. ~~29~~ 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

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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 .