

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE CREATION OF AN ENTERPRISE THAT IS EXEMPT FROM THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION TO ADMINISTER A FEE-BASED WASTE TIRE MANAGEMENT PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Prime Sponsors: Sens. Priola and Hansen
Reps. Mauro and Froelich

JBC Analyst: Andrew McLeer
Phone: 303-866-4959
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Appropriation Items of Note

Appropriation Already Added to Bill, No Amendment in Packet

TABOR Impact

New Cash Funds (with Continuous Appropriation)

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/29/24.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
None.	

Current Appropriations Clause in Bill

The bill includes an appropriation clause that appropriates \$60,208 cash funds from the Waste Tire Administration, Enforcement, Market Development, and Cleanup Fund to the Department of Public Health and Environment for FY 2024-25. Of this amount, \$51,208 is further appropriated to the Department of Law. This provision also states that the appropriation is based on the assumption that the Department of Law will require an additional 0.2 FTE.

Points to Consider*TABOR/ Excess State Revenues Impact*

The March 2024 Office of State Planning and Budgeting (OSPB) revenue forecast projects a TABOR surplus liability of \$1.3 billion for FY 2024-25 and \$1.8 billion for FY 2025-26 to be refunded to taxpayers out of the General Fund. Legislation that increases non-exempt revenue (such as cash funds) will increase the TABOR refund from the General Fund. The budget package includes a set aside of \$63.1 million General Fund for appropriations in FY 2024-25.

This bill is estimated to increase cash fund revenues by up to \$7.9 million in FY 2025-26, which will reduce the available General Fund by an equal amount.

Legislative Appropriation Authority

Continuous spending authority, also known as **continuous appropriation**, allows state agencies to spend money for statutorily specified purposes up to the total amount available in a specified fund source without seeking further legislative approval through the budget process.

The term appropriation is broadly understood as expressing or conveying legal spending authority. However, the term appropriation also inherently expresses fundamental legislative fiscal authority by communicating a limit on or maximum amount of spending from a specified fund source for a defined period such as a fiscal year. While continuous spending authority also expresses or conveys legal spending authority it does so by eliminating legislative fiscal authority and oversight.

An annual appropriation provides a limit on spending authority, while a continuous appropriation provides unlimited spending authority. This method of funding moves these expenditures off-budget, and thus expenditures are not reported or accounted for through the budget process.

Is it necessary for the Department of Public Health and Environment to **not** seek annual authority from the General Assembly to spend money from the Waste Tire Management Enterprise Fund and the Waste Tire Administration Fund?