

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1459

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MAY 23, 2012

SUMMARY

- Synopsis:** Revises “Electronic Waste Management Act.”
- Type of Impact:** Minimal or no impact.
- Agencies Affected:** Department of Environmental Protection, counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Minimal – See comments below		
State Revenue	Minimal – See comments below		
Local Cost	Minimal – See comments below		
Local Revenue	Minimal – See comments below		

- The Office of Legislative Services (OLS) estimates that the bill would have minimal or no fiscal impact on the Department of Environmental Protection (DEP) and certified local health agencies.
- The bill provides that all registration fees are to be used by the DEP to administer the act, which depending on the fees collected, could offset some or most program costs incurred by the department.
- Some costs currently incurred by the department could decrease or be eliminated due to provisions in the bill that streamline the enforcement and penalty requirements, and that remove the auditing and public hearing requirements of the act.
- The OLS notes that it is possible the State could receive increased revenue from the higher penalties imposed for violations that the act provides.

BILL DESCRIPTION

Assembly Bill No. 1459 (1R) of 2012 would amend the “Electronic Waste Management Act,” P.L.2007, c.347, by revising its penalty provisions, limiting the credit-trading program, reallocating the funds collected under registration fees, authorizing enforcement of the act by certified local health agencies, and removing audit and public hearing requirements under current law.

Under the bill, the DEP would use the registration fees from manufacturers to support the administration of the program. In addition, the bill would exempt manufacturers who sell less than 100 televisions or covered electronic devices in the previous program year from paying the \$5,000 registration or registration renewal fee. Any manufacturer who sells 100 or more units, after being exempted from fees, would be required to pay the registration fee or the registration renewal fee for any year in which 100 or more units are sold.

Current law provides that a person in violation of this act may be subject to a civil penalty of not less than \$500 nor more than \$1,000 for each offense, and the DEP is required to seek relief in Superior Court to enforce the statute. This bill would change the penalty provision to authorize the DEP to issue administrative orders, levy administrative penalties, bring a civil action seeking a court order, and bring an action for a civil penalty to enforce the act. The bill also authorizes the commissioner to assess a civil administrative penalty not to exceed \$50,000, for certain violations of the act, such as failure to register or submit or implement a plan. For other violations, the commissioner is authorized to assess a civil administrative penalty of not less than \$500 nor more than \$1,000 for each violation. In addition, the bill would authorize a court to impose a civil penalty for violations of the act of up to \$50,000 per day. Further, the bill authorizes certified local health agencies to enforce the act.

The bill would limit the provision of law allowing manufacturers that collect covered electronic devices in excess of their obligation to either sell credits to other manufacturers or apply the credits to the next year’s obligation by providing that no more than 25 percent of a manufacturer's obligation for any program year may be met with credits generated in a prior program year. The bill provides that no manufacturer or group of manufacturers may cease implementing its plan during any program year by using credits. The bill would also allow a nominal fee to be charged to a consumer for the collection, transportation, or recycling of a covered electronic device if a financial incentive, such as a coupon, of equal or greater value is provided. Finally, the bill would also delete provisions that require the used television recovery and recycling program to be audited by an independent certified public accountant each calendar year, and the DEP to hold a public hearing every one to two years to review the covered electronic device recycling goals and registration fees.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill would have minimal or no fiscal impact on the DEP and certified local health agencies. Since the bill provides that all registration fees are to be used by the DEP to administer the act, some or most of the program costs incurred by the department

could be offset depending on the amount of fees collected. Therefore, the OLS does not believe that any significant added expenditure by the department would be necessary. According to information informally provided by the Executive, some costs currently incurred by the department could decrease or be eliminated due to provisions in the bill that streamline the enforcement and penalty requirements, and that remove the auditing and public hearing requirements of the act. The OLS notes that it is possible the State could receive increased revenue from the higher penalties imposed for violations that the act provides.

Section: Environment, Agriculture, Energy and Natural Resources

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).