

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 27, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2935 by King, Phil (Relating to the regulation of cigarettes; providing a penalty.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB2935, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042	Probable Revenue Gain from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042
2008	\$500	(\$500)	(\$119,840)	\$119,840
2009	\$49,750	(\$49,750)	(\$412,906)	\$412,906
2010	\$500	(\$500)	(\$422,275)	\$422,275
2011	\$1,000	(\$1,000)	(\$421,775)	\$421,775
2012	\$50,250	(\$50,250)	(\$375,525)	\$375,525

Fiscal Year	Change in Number of State Employees from FY 2007
2008	2.0
2009	9.0
2010	9.0
2011	9.0
2012	9.0

Fiscal Analysis

The bill would amend the Health and Safety Code to require testing to be conducted on cigarettes, prior to sale, to ensure that they meet certain performance standards related to fire safety. The bill would require cigarette manufacturers to certify to the State Fire Marshal's Office at the Texas Department of Insurance (TDI) that the cigarettes meet performance standards and the package must contain markings with this certification. Manufacturers would be required to pay the State Fire Marshal's Office a fee of \$250 for each cigarette certification. Certifications would be required to be renewed every three years. The State Fire Marshal's Office would be authorized to adopt and enforce rules and would be required to make reports relating to the effectiveness of the testing. The Attorney General would be authorized to seek injunctive relief and collect civil penalties.

The bill would take effect October 1, 2008.

Methodology

It is assumed the State Fire Marshal's Office at TDI would incur costs as a result of the bill. These costs would include salaries, benefits, and other operating expenses for 2 FTEs in fiscal year 2008, one Program Supervisor II and one Program Specialist II. These FTEs would write rules and reports, interact with the cigarette manufacturers, and provide approval of labs and standards. It is assumed costs in subsequent fiscal years would include salaries, benefits, and other operating expenses for an additional 7 FTEs, two Administrative Assistant III and five Inspector IV. These FTEs would perform fee collection and accounting and conduct field inspections and investigations.

The bill would require manufacturers to pay a certification fee of \$250 for each new and renewal certification. Certification would be required to be renewed every three years. It is assumed 2 new certifications would be issued in fiscal year 2008, 199 new certifications would be issued in fiscal year 2009, 2 new certifications would be issued in fiscal year 2010, 2 renewal and 2 new certifications would be issued in fiscal year 2011, and 199 renewal and 2 new certifications would be issued in fiscal year 2012. This analysis assumes certification fee revenue would be deposited to General Revenue Fund and would be used to offset costs incurred by TDI to implement the provisions of the bill. Since TDI is required to generate revenues equivalent to its cost of operation under current law, this analysis assumes that all costs incurred in excess of revenues generated would be paid for from General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees.

The bill would create a new General Revenue - Dedicated Account - Fire Prevention and Public Safety, which would consist of civil penalties collected under the bill. The bill provides that funds in the account could be appropriated to the state fire marshal to support fire safety and prevention programs. The amount of penalties that would be collected under the bill are not estimated in this analysis. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

This analysis assumes that a federal reduced cigarette ignition propensity standard that preempts the provisions of the bill would not be adopted and become effective. If such a federal standard was adopted and became effective the costs identified in this analysis would be reduced to the extent that the provisions of the bill were preempted.

Based on the analysis of the Attorney General, duties and responsibilities at that agency associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Technology

There would be a impact at TDI of \$2,888 in fiscal year 2008 and \$17,733 in fiscal year 2009 for computer hardware and software.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance, 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: JOB, KJG, MW, SK