

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 13, 2009

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

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

IN RE: HB1523 by Alvarado (Relating to a prohibition of foods containing trans fat; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1523, As Introduced: a positive impact of \$362,000 through the biennium ending August 31, 2011.

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
2010	\$181,000
2011	\$181,000
2012	\$181,000
2013	\$181,000
2014	\$181,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>Food & Drug Fee Acct</i> 341	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$247,353)	\$181,000	1.5
2011	(\$273,188)	\$181,000	2.0
2012	(\$273,420)	\$181,000	2.0
2013	(\$273,660)	\$181,000	2.0
2014	(\$273,908)	\$181,000	2.0

Fiscal Analysis

The bill requires a food service facility to maintain labels for any food or food additive that contains any fat as long as the food is used in the facility. The labels are to be made available during an inspection by the Department of State Health Services (DSHS) or Local Health Departments.

The bill would prohibit a food service facility from using trans fats to prepare, package, store, serve, distribute, or use in food. The bill exempts packaged food served directly to a consumer in the original sealed package of the manufacturer and food with a nutritional facts label or other documentation from the manufacture that indicates the food has .5 grams or less of trans fat. This section would take effect September 1, 2010.

The bill would allow DSHS or a Local Health Department to inspect food service facilities for compliance with this chapter. On an alleged violation the inspector shall send the commissioner of DSHS and the owner of the facility a notice by certified mail of the violation and may assess an administrative penalty not to exceed \$1,000 per violation.

The owner of the facility may file for an administrative hearing before the penalty is assessed. If the owner does not request a hearing then the commissioner may assess the administrative penalty

The bill requires DSHS to maintain a list on DSHS website of facilities that are out of compliance with this chapter. A facility may not be removed from the list until the facility is inspected again and determined to be in compliance.

Except as listed above, the bill would take effect September 1, 2009.

Methodology

Because of the new inspection requirements DSHS estimates it will need two Sanitary I FTEs to maintain the number inspections DSHS performs each year. This analysis assumes the FTEs would not be hired until December 1, 2009. The expected the associated cost for the FTEs is \$121,353 in fiscal year 2010 and approximately \$147,188 in fiscal year 2011 and beyond would be funded from the Food and Drug Fee Account. These costs include salary, benefits, travel, and other operating expenses.

DSHS expects that 36 facilities will request a hearing to contest an administrative penalty. DSHS estimates that each hearing will cost \$3,500 in fees to the State Office of Administrative Hearings for a total cost of \$126,000 for each year.

DSHS expects there will be 181 facilities out of compliance each year and assuming each penalty was assessed at \$1,000 it is expected DSHS would collect \$181,000 per year. Because the revenue collected is not appropriated to DSHS it is expected that the revenue would go to the General Revenue Fund.

DSHS expects any cost associated with maintaining a list of facilities on DSHS website can be absorbed within existing resources.

Local Government Impact

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

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, PP, BM