

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 20, 2009

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

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

IN RE: **HB1845** by Lucio III (Relating to disclosure of calorie content of and nutrition information regarding food served by a chain restaurant; providing an administrative penalty.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB1845, As Introduced: a positive impact of \$158,500 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	\$68,000
2011	\$90,500
2012	\$90,500
2013	\$90,500
2014	\$90,500

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
2010	(\$94,500)	\$68,000
2011	(\$126,000)	\$90,500
2012	(\$126,000)	\$90,500
2013	(\$126,000)	\$90,500
2014	(\$126,000)	\$90,500

Fiscal Analysis

The bill requires a chain restaurant with 20 or more establishments in Texas to post the nutritional information of each item. The information must be visible and available before the consumer purchases the food. There are exemptions for farmer’s markets, commissaries, grocery stores, licensed health care facilities, school cafeterias, and a mobile support unit. The nutritional information must include calorie content, total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and total protein.

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 \$500 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 would take effect January 1, 2010.

Methodology

Due to the fact that this would be a new requirement, it is expected that 136 administrative penalties will be issued in FY 2010 and 181 penalties will be issued in FY 2011 and beyond. Assuming each penalty was assessed at \$500 it is expected DSHS would collect \$68,000 in fiscal year 2010 and \$90,500 in fiscal year 2011 and beyond. Because the administrative penalty revenue collected is not appropriated to DSHS it is expected that the revenue would go to the General Revenue Fund.

It is projected that 27 facilities in fiscal year 2010 and 36 facilities in fiscal year 2011 and beyond will request a hearing to contest an administrative penalty. The agency estimates that each hearing will cost \$3,500 in fees to the State Office of Administrative Hearings for a total cost of \$94,500 in fiscal year 2010 and \$126,000 in fiscal year 2011 and beyond. These costs are assumed to be from General Revenue-Dedicated Account 341, Food and Drug Fee Account.

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, BM, MB