

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 7, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB2310 by Kuempel (Relating to the powers and duties of the Texas Department of Licensing and Regulation, including the power to issue emergency orders and temporary and emergency licenses.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2310, As Passed 2nd House: an impact of \$0 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	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$938,153)	\$938,153	13.0
2011	(\$859,953)	\$859,953	13.0
2012	(\$859,953)	\$859,953	13.0
2013	(\$859,953)	\$859,953	13.0
2014	(\$859,953)	\$859,953	13.0

Fiscal Analysis

The bill would amend various provisions of Chapter 51 of the Occupations Code including (1) to establish a definition of an advisory board; (2) to establish rules for removing an advisory board member; (3) to authorize the Texas Department of Licensing and Regulation (TDLR) to take payments by credit card or electronic payment; (4) to authorize the executive director of TDLR to issue emergency orders, cease and desist orders, and emergency licenses; and (5) to authorize TDLR to issue subpoenas. The bill would also establish when a person whose license has been revoked may reapply for the license and regulations for an inactive status license.

The bill would require TDLR to issue a determination letter regarding an applicant's request for a

criminal history background check and the applicant's eligibility for a license. The bill would authorize TDLR to charge and collect a fee in an amount sufficient to cover the costs of the administration of this provision of the bill. The bill would also authorize TDLR to require a testing service to collect a fee for administering a license examination from a person taking the examination.

The bill would also add Chapter 802 to the Occupations Code and require TDLR to license and regulate commercial dog and cat breeders. The bill would require TDLR to establish eligibility requirements for licenses, to conduct criminal background checks on applicants, and to annually inspect each facility of a licensed commercial breeder. The bill would require TDLR to establish qualifications and training for registered breeder inspectors. The bill would also require TDLR to inspect a facility before an initial commercial breeder license is issued for the facility. The bill would authorize TDLR to set a licensing fee and a nonrefundable inspection fee.

The bill would require TDLR to maintain a directory of licensed commercial breeders to prepare information of consumer interest regarding the regulation of commercial breeders and the rights of a consumer. The bill would require TDLR to adopt, with the advice of the advisory committee, standards of care to ensure the overall health and welfare of each animal in the commercial breeder's facility. The bill would establish a civil penalty for any violation.

The bill would require TDLR to establish a Dog and Cat Advisory Committee with seven members appointed by the commissioner to advise the Department in adopting rules and in administering and enforcing the regulation of commercial breeders. The bill would authorize the reimbursement of the Advisory Committee.

The bill would take effect September 1, 2009. Sections 51.4011 and 51.4012 of the Occupations Code, which provide for inactive status licenses and require TDLR to issue determination letters, respectively, would take effect May 1, 2010. The license requirement for commercial dog and cat breeders and enforcement regulations would take effect September 1, 2010.

Methodology

With regard to the bill's provisions relating to Chapter 51, the Texas Department of Licensing and Regulation estimates that 4,000 people could potentially request a determination letter. This calculation is based on the number of licensing programs that require pre-education or an examination before license issuance, and the estimated positive criminal history hit rate for this population. TDLR estimates a fee of \$25 for processing the letter requests and implementing the criminal history background checks would cover the costs of administering the program. TDLR anticipates needing 1.5 Legal Assistant III FTEs in order to evaluate, investigate and respond to the requests. Other costs include purchasing computers, rent space, and office equipment for the additional 1.5 FTEs.

With regard to the licensing of commercial dog and cat breeders, TDLR estimates the population of commercial dog and cat breeders within the state of Texas to be 1,000 and the estimated population of certified inspectors to be 200. It is assumed that TDLR would require an additional 11.5 FTEs to license, regulate and enforce the provisions of the bill: 1.0 administrative assistant III for licensing; 1.0 program specialist V to assist in establishing regulations, standards, and oversight of the enforcement activities; 3.0 inspector IV to conduct the initial and annual inspection of facilities; 1.0 legal assistant II for complaint intake; 0.5 administrative assistant II for intake assistance; 2.0 investigator IV to investigate complaints; 1.0 attorney IV and 1.0 legal assistant III for prosecuting violations; and 1.0 general counsel III for specialized rulemaking and anticipated high levels of interest in the rulemaking.

TDLR anticipates receiving 1,000 complaints per year related to commercial dog and cat breeding, of which 500 complaints will be opened, and 100 will result in hearings. TDLR also anticipates conducting 1,000 pre-licensure inspections in Fiscal Year (FY) 2010, and 2,050 inspections each subsequent year for the annual inspections (1,000), complaint inspections (1,000), and 50 pre-licensure inspections.

TDLR anticipates that for each commercial breeder, there is also at least one controlling person who will also require a criminal history background check. Based on the analysis of TDLR, it is assumed criminal history checks will cost \$2,000 per year.

In addition to salary and benefit costs, other costs include \$31,671 each year in rent for space for the additional FTEs in non-state-owned buildings, \$19,000 each year in annual travel costs, \$69,350 in FY 2010 for equipment costs, and \$17,250 each year for other operating expenses.

This analysis assumes that any increased costs to the agency, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation, 302 Office of the Attorney General

LBB Staff: JOB, SD, ES, JRO, MW