

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 3, 2009

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

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

IN RE: HB3282 by Gattis (Relating to cottage food production operations.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3282, Committee Report 1st House, Substituted: a negative impact of (\$280,240) 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	(\$71,344)
2011	(\$208,896)
2012	(\$209,611)
2013	(\$210,346)
2014	(\$211,101)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>Food & Drug Fee Acct</i> 341	Probable Revenue Gain from <i>Food & Drug Fee Acct</i> 341	Probable Revenue (Loss) from <i>Food & Drug Fee Acct</i> 341
2010	(\$71,344)	(\$253,750)	\$253,750	(\$412,800)
2011	(\$208,896)	(\$165,000)	\$165,000	\$0
2012	(\$209,611)	(\$165,000)	\$165,000	(\$412,800)
2013	(\$210,346)	(\$165,000)	\$165,000	\$0
2014	(\$211,101)	(\$165,000)	\$165,000	(\$412,800)

Fiscal Year	Probable Revenue (Loss) from <i>Food & Drug Registration</i> 5024	Change in Number of State Employees from FY 2009
2010	(\$140,400)	3.8
2011	\$0	5.0
2012	(\$140,400)	5.0
2013	\$0	5.0
2014	(\$140,400)	5.0

Fiscal Analysis

This bill would require individuals who produce certain foods out of their home for sale to register with the Department of State Health Services (DSHS) as a cottage food production operation.

The Executive Commissioner by rule may require inspection of cottage food production operations before issuing a registration certificate, or if DSHS suspects the operation is in violation of code, standards, or operating in an unsanitary manner.

Local health departments may not regulate a cottage food operation that does not offer products to the public for consumption on the premises of the operation.

The bill would take effect on September 1, 2009.

Methodology

DSHS estimates there are 13 new cottage food operations in each county each year for about 3,300 additional registrations per year. DSHS estimates they will inspect 1,089 operations each year due to complaints. On average each inspector can perform 440 inspections per year. It is estimated that an additional 3 Sanitarian positions will be needed to perform the inspections. A Sanitarian II will be needed to oversee the inspections along with a Public Health Technician II. The associated cost for the 5 FTEs is \$303,781 in fiscal year 2010 and \$372,448 in fiscal year 2011 and beyond, these costs include salary, benefits, and standard operating expenses. These amounts include an estimated \$43,776 for each year for travel expenses to perform the inspections and training. DSHS estimates that \$1,178 would be required in postage each year to mail the registration certificates.

DSHS would be required to update the licensing and regulation system to include the new classification. DSHS estimates \$20,000 would be needed in fiscal year 2010 and an additional \$270 in fiscal year 2011 rising to \$675 in fiscal year 2014 for data storage.

DSHS expects 2,475 new registrations in fiscal year 2010 at a one time fee of \$50 for a gain of \$123,750 in fiscal year 2010 and 3,300 registrations in each fiscal year after for a gain of \$165,000 in fiscal year 2011 and beyond to the Food and Drug Fee Account. DSHS expects an additional 2,600 registrations of cottage food operations that were previously licensed under other programs to renew their license under the cottage food operations program for a gain of \$130,000 in fiscal year 2010.

Of those that were previously licensed 300 had their fee of \$104 and 700 had their fee of \$156 deposited in the Food and Drug Registration. Implementing the bill would result in a loss of revenue of \$140,400 in fiscal years 2010, 2012, and 2014 to the Food and Drug Registration Account.

Additionally 1,600 whose fee was deposited in the Food and Drug Fee Account would transfer to the cottage food operations program, but at a lower fee structure instead of their current \$258. Implementing the bill would result in a loss of \$412,800 in fiscal years 2010, 2012, and 2014 to the Food and Drug Fee Account.

The total cost for the bill is \$325,094 in fiscal year 2010 and \$373,896 in fiscal year 2011 in All Funds.

Technology

In the cost included above DSHS estimates to update the LicenseEase software to include the new license types. It will take 100 hours at \$200 an hour resulting in a cost of \$20,000 in fiscal year 2010. DSHS estimates \$270 in fiscal year 2011 rising to \$675 in fiscal year 2014 for data storage.

Local Government Impact

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

Source Agencies: 529 Health and Human Services Commission, 537 State Health Services, Department of, 551 Department of Agriculture

LBB Staff: JOB, CL, BM, MB