

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 23, 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.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3282, As Introduced: 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	(\$213,447)
2013	(\$214,782)
2014	(\$216,157)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>Food &amp; Drug Fee Acct</i> 341	Probable Revenue Gain from <i>Food &amp; Drug Fee Acct</i> 341	Probable Revenue (Loss) from <i>Food &amp; Drug Fee Acct</i> 341
2010	\$0	(\$603,369)	\$885,000	(\$412,800)
2011	\$0	(\$707,152)	\$495,000	\$0
2012	(\$213,447)	(\$495,000)	\$495,000	(\$412,800)
2013	(\$214,782)	(\$495,000)	\$495,000	\$0
2014	(\$216,157)	(\$495,000)	\$495,000	(\$412,800)

Fiscal Year	Probable Revenue (Loss) from <i>Food &amp; Drug Registration</i> 5024	Change in Number of State Employees from FY 2009
2010	(\$140,400)	7.6
2011	\$0	10.2
2012	(\$140,400)	10.2
2013	\$0	10.2
2014	(\$140,400)	10.2

**Fiscal Analysis**

This bill would require individuals who produce food out of their home for sale to register with the

Department of State Health Services (DSHS) as a cottage food production operation. Operations that produce potentially hazardous food as defined by the Health and Human Services Commission (HHSC) Executive Commissioner are not regulated by this section.

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 is operating in an unsanitary manner. Registrations would be issued to operations that pass the required inspection, pay required registration fees, and meet any other requirements.

Cottage food production operations that sell potentially hazardous food would be required to hold a permit issued by a county, public health district, or DSHS.

The bill would take effect on September 1, 2009.

## **Methodology**

DSHS estimates there are 13 new cottage food operations in each county each year resulting in approximately 3,300 additional inspections per year. It is estimated that an additional 7 Sanitarian I FTEs will be needed to perform the inspections with a Sanitarian II, Administrative Assistant II, and a Public Health Technician II needed to review and process reports and issue registrations. The associated cost for the 10 FTEs is \$0.6 million in fiscal year 2010 and \$0.7 million in fiscal year 2011 and beyond; these costs include salary, benefits, and standard operating expenses. 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 cottage food production operation classification. DSHS estimates a cost of \$20,000 in fiscal year 2010 with an additional \$270 needed in fiscal year 2011 rising to \$675 in fiscal year 2014 for data storage.

DSHS expects 3,300 new registrations each year at a one-time fee of \$150 for a gain of \$495,000 in fiscal year 2010 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 \$390,500 in fiscal year 2010.

Of those previously licensed, 300 paid a fee of \$104 and 700 paid a fee of \$156 every other year with revenue deposited in the Food and Drug Registration Account. Implementing the bill would result in a loss of revenue of \$140,400 in fiscal years 2010, 2012, and 2014 from the Food and Drug Registration Account. Additionally, 1,600 paid a fee of \$258 every other year with revenue deposited in the Food and Drug Fee Account resulting in a loss of revenue of \$412,800 in fiscal years 2010, 2012, and 2014 from the Food and Drug Fee Account.

The total cost for the bill is \$0.6 million in fiscal year 2010 and \$0.7 million in fiscal year 2011 in All Funds. It is assumed that revenue generated in fiscal year 2010 will pay all of the costs in that year with a balance of \$0.2 million added to revenue generated in fiscal year 2011 to pay the costs in that year. In fiscal year 2012 and beyond the fee will not generate sufficient revenue to fund the costs and \$0.2 million in General Revenue Funds will be required in each year to make up the difference.

## **Technology**

Costs include \$20,000 in fiscal year 2010 to update the LicenseEase software to include the new license types and \$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, LR