

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 19, 2011

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

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

IN RE: HB1139 by Rodriguez, Eddie (Relating to the regulation of cottage food products and cottage food production operations.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1139, As Introduced: a positive impact of \$1,177,680 through the biennium ending August 31, 2013.

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
2012	\$588,840
2013	\$588,840
2014	\$588,840
2015	\$588,840
2016	\$588,840

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from General Revenue Fund 1	Probable Revenue (Loss) from Food & Drug Fee Acct 341	Probable Revenue (Loss) from Food & Drug Registration 5024
2012	\$588,840	(\$95,000)	(\$47,100)
2013	\$588,840	(\$95,000)	(\$47,100)
2014	\$588,840	(\$95,000)	(\$47,100)
2015	\$588,840	(\$95,000)	(\$47,100)
2016	\$588,840	(\$95,000)	(\$47,100)

Fiscal Analysis

The bill would amend Chapter 437 of the Health and Safety Code to define a cottage food production operation as one that operates out of an individual’s home and has annual gross sales of \$150,000 or less. Cottage food manufacturers may only manufacture baked goods, canned jam or jelly, dried fruit, candy, snack food, cereal, granola, dry mix, vinegar, or dried herbs.

The bill would require cottage food manufacturers to receive a permit from the Department of State Health Services (DSHS) and pay fees determined necessary by DSHS. Cottage food manufacturers would have to include a statement on their products stating “Made in a home kitchen that is not routinely inspected by a state or local health authority.” They must successfully complete a basic food safety education or training program before they can be permitted. The bill would prohibit them from

selling their products over the internet, by mail, by consignment, or at wholesale. The bill would provide for inspections upon complaint. The bill would require the Executive Commissioner of Health and Human Services Commission (HHSC) to adopt rules by January 1, 2012 to implement this program.

Methodology

DSHS estimates there will be 3,302 new cottage food operations (average 13 per county). At a cost of \$120 per license it is expected there will be a gain of \$396,240 in general revenue. DSHS estimates there will be 845 current licensed Food Manufacturers and 760 current licensed Food Service Establishments that will move to cottage food operations. Due to this shift, it is estimated that there will be a loss of \$47,100 in general revenue dedicated account No. 5024 each fiscal year and a loss of \$95,000 in general revenue dedicated account No. 341 each fiscal year. This loss will be offset by a gain in general revenue of \$192,600 each fiscal year for the cottage food operation license $[(845+760) * \$120 = \$192,600]$. It is assumed that DSHS can absorb the costs of any inspections that are warranted as a result of a complaint.

This analysis assumes that HHSC can absorb any cost associated with adopting rules.

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, MB, BM