

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: HB2084 by Kolkhorst (Relating to the regulation of small food production and sales operations.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2084, As Introduced: a negative impact of (\$64,070) 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	(\$32,035)
2013	(\$32,035)
2014	(\$32,035)
2015	(\$32,035)
2016	(\$32,035)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund 1</i>	Probable Revenue (Loss) from <i>Food & Drug Fee Acct 341</i>	Probable Revenue (Loss) from <i>Food & Drug Registration 5024</i>
2012	(\$32,035)	(\$95,000)	(\$32,455)
2013	(\$32,035)	(\$95,000)	(\$32,455)
2014	(\$32,035)	(\$95,000)	(\$32,455)
2015	(\$32,035)	(\$95,000)	(\$32,455)
2016	(\$32,035)	(\$95,000)	(\$32,455)

Fiscal Analysis

The bill would amend Chapter 435 of the Health and Safety Code by exempting small dairy production operations (produces less than \$250,000 worth of milk products per year) from certain fee prohibitions. The bill would require such operations to hold a permit issued by the Department of State Health Services (DSHS) and pay a specified annual fee.

The bill would amend Chapter 437 of the Health and Safety Code, relating to the regulation of food service establishments. The bill would define "baked good" and "cottage food production operation", would clarify that a cottage food production operation is not a food service establishment, and would prohibit a local health department from regulating these operations, but would require investigation of complaints.

The bill would also amend Chapter 33 of the Human Resources Code, relating to Nutritional Assistance Programs, by adding Section 33.029. This section defines farmers' markets and requires the Health and Human Service Commission (HHSC) to develop and implement a farmers' market nutritional assistance program for farmers' markets certified by the Texas Department of Agriculture. The bill prohibits HHSC from implementing the program as a means of regulating farmers' markets and authorizes HHSC to accept gifts, grants, and federal or local funds to aid in the administration of the program.

The bill would require the Comptroller to determine whether land used for certain purposes is eligible under current law for appraisal under Subchapter C or D, Chapter 23, Tax Code. The Comptroller would be required to submit the findings of the study to the Legislature by December 1, 2012. This section expires December 31, 2012.

Methodology

The Department of State Health Services (DSHS) estimates there will be 58 dairy farms and 28 dairy plants that meet the criteria for the bill. The current fee for these operations is \$400 per year. DSHS estimates an annual general revenue loss of \$20,300 for dairy farms, \$8,400 for dairy plants, and \$3,335 due to certain exemptions, for a total of \$32,035.

DSHS estimates that there will be 760 current retail food establishments and 242 food manufacturing facilities that will qualify for and transfer to the new category, resulting in a net revenue loss of \$127,455 each fiscal year (\$95,000 from food establishments and \$32,455 from facilities). It is assumed DSHS can absorb the costs of investigating complaints against cottage food production operations within existing resources.

This analysis estimates that HHSC can absorb any cost associated with implementing a Farmers' Market Nutrition Assistance Program within existing resources. This analysis also estimates that any cost for the Comptroller to perform the Land Eligibility study can be absorbed within existing resources.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 537 State Health Services, Department of

LBB Staff: JOB, CL, MB, BM, NB