

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 26, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

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

IN RE: SB81 by Nelson (Relating to food safety.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB81, As Passed 2nd House: an impact of \$0 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	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from Food & Drug Registration 5024	Probable Revenue Gain from Food & Drug Registration 5024	Change in Number of State Employees from FY 2011
2012	\$0	\$0	0.0
2013	(\$480,514)	\$535,500	5.0
2014	(\$443,343)	\$504,000	5.0
2015	(\$448,049)	\$504,000	5.0
2016	(\$444,808)	\$504,000	5.0

Fiscal Analysis

This bill would amend Chapter 431, Health and Safety Code, to allow the Department of State Health Services (DSHS) to license all shippers of raw fruits and vegetables and allow DSHS to license packers and washers of raw fruits and vegetables if they are not operating at the location of the harvest. This section takes effect September 1, 2012.

The bill would require DSHS to approve food safety best practice education programs for businesses licensed under the chapter.

The bill would require any federal rule adopted as a state rule to be posted on the department's website with a link to the federal regulation and a clear explanation of the purpose of the regulation.

The bill would amend Chapter 437, 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 each local health department and the Department of State Health Services (DSHS) to keep a record of each complaint.

The bill would allow DSHS or a local health department to issue a temporary food establishment permit to a person who sells food at a farmers' market held at a single location without a limitation on the number of days it is effective. The executive commissioner of the Health and Human Services Commission shall adopt rules on temperature requirements for food prepared, sold, or distributed on-site at a farmers' market. The executive commissioner or a state or local enforcement agency may not mandate a specific method for complying with temperature control and may not require a permit fee for performing a cooking demonstration.

Methodology

DSHS estimates there are 1,430 producers who would be licensed each year with a two-year license. DSHS estimates the cost of the license would be \$350 and that licensing would begin in FY 2013. It is estimated that DSHS would generate \$500,500 in fees that would be deposited in Food and Drug Fee Account No. 5024 (GR-Dedicated).

DSHS estimates that 4.0 FTEs (1 Administrative Assistant II, 2 Sanitarian I, and 1 Sanitarian III) would be needed to license fruit and vegetable shippers. It is estimated that the cost to train and supply the FTEs is \$325,000 in FY 2013 and \$314,000 in each subsequent year. These costs include \$28,000 per year for traveling expenses. It is estimated that equipment to test fruits and vegetables for food-borne illnesses would cost \$84,723 in FY 2013 and approximately \$61,000 in subsequent years. All costs would be expended from Food and Drug Fee Account No. 5024.

DSHS estimates that there are 50 food safety course providers that would need to be certified by the department in FY 2013 and 5 course providers each year thereafter. DSHS estimates that each certification would be \$700 for an estimated revenue gain of \$35,000 in FY 2013 and \$3,500 each year thereafter to Food and Drug Fee Account No. 5024. DSHS estimates 1.0 FTE (Environmental Specialist II) would be needed to certify the 50 course providers starting in FY 2013 and the additional 5 course providers each year thereafter. The certification would be valid for 5 years. It is estimated that the cost to train and supply the FTE would be \$70,605 in FY 2013 and beyond. All costs would be expended from the Food and Drug Fee Account No. 5024.

According to DSHS, there could be a small decrease in revenue to the state if entities currently permitted as food service establishments transfer to cottage food operations, which would be offset by a small revenue increase if vendors at farmer's markets were issued temporary food establishment permits.

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, BM, CL, VJC, MB