

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 21, 2011

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

IN RE: SB751 by Hegar (Relating to the regulation of catfish and other siluriform fish intended for human consumption; providing civil and administrative penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB751, As Introduced: a negative impact of (\$1,482,663) 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	(\$674,614)
2013	(\$808,049)
2014	(\$809,583)
2015	(\$811,143)
2016	(\$812,755)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2011
2012	(\$674,614)	9.8
2013	(\$808,049)	13.0
2014	(\$809,583)	13.0
2015	(\$811,143)	13.0
2016	(\$812,755)	13.0

Fiscal Analysis

The bill would amend Chapter 436 of the Health and Safety Code by adding Subchapter J "Labeling and Marketing of Catfish and other Siluriform Fish." The bill would require a retailer to label a product with catfish or siluriform fish to state the country of origin and whether the product was made from farm-raised catfish or wild catfish. The bill would require food service establishments to display the country of origin of the catfish and whether the catfish was farm-raised or wild.

The bill would allow the Department of State Health Services (DSHS) to inspect and audit the establishment's records for compliance with Subchapter J. The bill would allow the Commissioner of DSHS to exempt products that only contain a small portion of catfish products or products that are not typically considered to be part of the US catfish industry. The bill would allow DSHS to charge a civil penalty for each violation of Subchapter J not to exceed \$25,000 a day. The bill would allow the

Commissioner of DSHS to request the Attorney General to sue for any uncollected administrative penalties. The bill would allow the Executive Commissioner of the Health and Human Services Commission to adopt rules to administer this chapter.

The bill would take effect September 1, 2011.

Methodology

DSHS estimates there are 7,700 food retail establishments, 1,000 food manufacturers, and 500 United States Department of Agriculture Country of Origin Inspections that would be under these regulations. Each inspection would take .5 of an hour so there would be 4,600 hours of inspections and there are 1,648 hours in a year for inspections, for an estimated 2.5 full time equivalent positions. Additionally, DSHS estimated that 2.5 full time equivalent positions would be required to write warning letters and notices of non-compliance to the establishments. This analysis assumes that these positions will cost an estimated \$250,000 in FY 2012 and \$300,000 in FY 2013 and beyond in General Revenue. These costs include benefits, consumable supplies, rent, and other set up costs.

DSHS estimates a non-compliance rate of 67% based on the national average of country of origin labeling non-compliance. Out of the 9,200 establishments under this program an estimated 6,164 would require re-inspection. An estimated 2.2 hours per re-inspection would result in 13,560 hours of inspections. With each inspector performing 1,648 hours of inspections each year, an estimated 8 full time equivalent positions would be required. This analysis assumes that these positions will cost \$390,000 in FY2012 and \$470,000 in FY 2013 and beyond in General Revenue. These costs include benefits, consumable supplies, rent, and other set up costs.

Enterprise support services costs at DSHS are included at approximately \$30,000 per year. The Health and Human Services Commission and the Attorney General estimate that any cost can be absorbed within existing resources.

Local Government Impact

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

Source Agencies: 302 Office of the Attorney General, 529 Health and Human Services Commission, 537 State Health Services, Department of

LBB Staff: JOB, CL, MB, BM