# LEGISLATIVE BUDGET BOARD
## Austin, Texas

## FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

## March 26, 2013

**TO:** Honorable Patricia Harless, Chair, House Committee on Environmental Regulation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB1473** by Rodriguez, Eddie (Relating to water quality improvement and pollution reduction through beverage container recycling incentives; assessing a fee; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1473, As Introduced: an impact of $0 through the biennium ending August 31, 2015.

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 |
|---|---|
| 2014 | $0 |
| 2015 | $0 |
| 2016 | $0 |
| 2017 | $0 |
| 2018 | $0 |

### All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain/(Loss) from *Incentive Program Account* | Probable (Cost) from *Incentive Program Account* | Probable Revenue Gain/(Loss) from *Water Infrastructure Fund* 302 |
|---|---|---|---|
| 2014 | $753,900,000 | ($753,900,000) | $138,606,250 |
| 2015 | $753,900,000 | ($753,900,000) | $138,856,250 |
| 2016 | $753,900,000 | ($753,900,000) | $138,856,250 |
| 2017 | $753,900,000 | ($753,900,000) | $138,856,250 |
| 2018 | $753,900,000 | ($753,900,000) | $138,856,250 |

| Fiscal Year | Change in Number of State Employees from FY 2013 |
|---|---|
| 2014 | 40.0 |
| 2015 | 40.0 |
| 2016 | 40.0 |
| 2017 | 40.0 |
| 2018 | 40.0 |

## Fiscal Analysis

The bill would establish a new Beverage Container Recycling Incentive Program (BCRIP) and a new Texas Beverage Container Recycling Consortium (BCRC) to administer the incentive program. The bill would require that fee of $0.05 for containers 24 ounces or less or $0.10 for containers over 24 ounces be collected by retailers from consumers purchasing beverages in sealed containers under one gallon volume, with few exceptions. Revenue would by collected by redemption centers, remitted to the BCRC, and deposited to the newly established Incentive Program Account. The bill does not provide that the new account would be within the General Revenue Fund. Money in the account would be used to administer the new chapter, educate consumers, reimburse redemption centers, and implement the state water infrastructure plan. The bill also would require that 2 percent of money in the account be redistributed to beverage distributors in proportion to the amount that each distributor contributed to the account. The bill would require that 2.5 percent of the unencumbered balance of the account be deposited to the credit of the Texas Commission on Environmental Quality (TCEQ) for grants that fund local and regional solid waste projects out of the General Revenue-Dedicated Solid Waste Disposal Account No. 5000. The deposit to TCEQ would cease when the state recycling rate reaches 65 percent as determined by the Comptroller.

The BCRC would consists of nine members appointed by the Governor. The BCRC would be required to regulate redemption centers, enforce compliance, develop and implement a marketing plan, provide for a procedure for reimbursements by redemption centers based on weight, the development of procedures for regulating the accuracy of scales used to weigh containers, develop monitoring and audit systems and procedures, submit reports, and develop and implement a website, among other duties. The bill would also require the establishment of redemption and recycling centers to accept beverage containers that have a refund value. Such centers would be required to apply to the BCRC to be authorized as a redemption center. Centers would be required to sell the material generated by the crushed or shredded used beverage containers to a processor or other end user. Centers would receive the amount equal to the redemptions the center had handled, plus handling fees equal to $.015 per beverage container or a per pound amount as established by the BCRC.

The bill would require the consortium to submit an annual report to the Governor, Lieutenant Governor, Speaker of the House, the Texas Commission on Environmental Quality (TCEQ), and certain legislative committees.

Beverage container redemption deposit amounts would not be subject to state sales tax.

The bill would take effect on September 1, 2013.

## Methodology

This analysis assumes the per capita average of beverage container use is about 500 per person per year. Based on U.S. Census data for the population of Texas in 2010 of 25.1 million, it is estimated that 12.6 billion beverage containers are sold in the state each year. This analysis assumes that the majority of the beverage containers in the state would be less than 24 ounces, and that the average deposit amount per bottle would be $.06. As a result, passage of the bill is expected to result in revenues of $753.9 million per year to the newly created Incentive Program Account.

The ten (10) states that have beverage container redemption programs report that between 66 and 97 percent of the containers sold are returned for redemption. This analysis assumes that 65 percent of containers would be returned for redemption, also at the average $.06 per unit rate, resulting in $490.0 million in payments being made to redemption centers as reimbursements for payments to consumers returning beverage containers. The bill also provides for the redemption centers to receive a handling fee of $.015 per unit or a rate based on weight. This analysis assumes that the per weight handling fee would be approximately equal to the $.015 cents per unit fee, resulting in handling fee payouts of $122.5 million per year out of the Incentive Program Account.

Administrative costs to the BCRC are based on a similar beverage container program that was proposed in fiscal year 2005, which would have only applied to border counties and would have been administered by the TCEQ. Based on that analysis, and applying the methodology statewide, 40.0 FTEs are expected to be needed to implement the BCRIP at a cost of $2.5 million per fiscal year, with an additional $250,000 in start up costs in fiscal year 2014 only. These costs would also be paid out of the Incentive Program Account.

After paying the costs of redemption payments, handling fees, and administrative costs to the BCRC, an estimated $138.6 million is expected to remain in the Incentive Program Account in fiscal year 2014 and $138.9 million in future years. This estimate assumes that these funds would all be allocated to the Water Infrastructure Fund (WIF) No. 302 (Other Funds) to implement the state's water infrastructure plan, as provided in the bill. Thus, this analysis assumes all revenues generated as a result of the bill's passage would be expended each fiscal year.

Although the bill calls for 2 percent of the amount remaining in the unencumbered balance of the Incentive Program Account at the end of each fiscal year be disbursed to beverage distributors in proportion to the amount that each distributed to the Incentive Program Account, this estimate assumes that all remaining available funds would be allocated to the WIF for water infrastructure projects. The bill also provides for a transfer of 2.5 percent of the unencumbered fund balance at the end of each biennium to the TCEQ's General Revenue-Dedicated Solid Waste Disposal Account No. 5000 for solid waste planning purposes. However, this provision expires when the Comptroller certifies that the state recycling rate has reached 65 percent. This analysis assumes that the 65 percent rate will be achieved during the 2014-15 biennium; thus no funds are expected to transfer to the Solid Waste Disposal Account No. 5000.

Although the TCEQ would be required to regulate the redemption centers created by the bill as recycling facilities, the additional workload is not expected to result in significant additional costs to the agency. Additional workload to the Comptroller's Office also is not expected to result in significant additional costs to the agency.

## Local Government Impact

Local governments choosing to operate redemption centers would be eligible to receive a portion of the estimated $122.5 million per year in handling fees that would be distributed to redemption centers. The amount of revenue a local government operating a redemption center would receive would depend on the number of containers an entity would redeem. Local governments also could be recipients of grants and loan funding for water projects to the extent that additional funding is available in the WIF.

**Source Agencies:** 304 Comptroller of Public Accounts, 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** UP, SZ, ZS, TL, TB, PM