

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 4, 2015

TO: Honorable Geanie Morrison, Chair, House Committee on Environmental Regulation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2425** by Rodriguez, Eddie (Relating to water quality improvement and pollution reduction through beverage container recycling incentives; assessing a fee; providing penalties; creating a criminal offense.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2425, As Introduced: an impact of \$0 through the biennium ending August 31, 2017.

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
2016	\$0
2017	\$0
2018	\$0
2019	\$0
2020	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from Recycling Refund Trust Account	Probable (Cost) from Recycling Refund Trust Account	Probable Revenue Gain/(Loss) from Solid Waste Disposal Acct 5000	Probable Savings/(Cost) from Solid Waste Disposal Acct 5000
2016	\$753,900,000	(\$618,758,906)	\$3,465,156	(\$3,465,156)
2017	\$753,900,000	(\$621,893,684)	\$6,849,933	(\$6,849,933)
2018	\$753,900,000	(\$625,193,842)	\$10,150,091	(\$10,150,091)
2019	\$753,900,000	(\$628,411,495)	\$13,367,745	(\$13,367,745)
2020	\$753,900,000	(\$631,548,708)	\$16,504,958	(\$16,504,958)

Fiscal Year	Change in Number of State Employees from FY 2013
2016	40.0
2017	40.0
2018	40.0
2019	40.0
2020	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 be collected by redemption centers, remitted to the BCRC, and deposited to the newly established Recycling Refund Trust 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 for matching grants or low-interest loans to fund water quality, waste reduction, recycling, or curbside redemption programs. 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 BCRC would consist 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, 2015.

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, enactment of the bill is expected to result in revenues of \$753.9 million per year to the newly created Recycling Refund Trust 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 Recycling Refund Trust 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 2016 only. These costs would also be paid out of the Recycling Refund Trust Account, and the BCRIP would require an appropriation for this funding.

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 Recycling Refund Trust Account in fiscal year 2016. The bill 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. Thus, at the end of fiscal year 2016, this estimate assumes that \$3.5 million would transfer to the Solid Waste Disposal Account No. 5000. Because the fund balance of the Recycling Refund Trust Account would continue to grow annually by the \$138.6 million in unspent funds less the 2.5 percent transfer amount, it is estimated that the transfer to the Solid Waste Disposal Account No. 5000 would grow to \$6.8 million in 2017, \$10.2 million in 2018; \$13.4 million in 2019; and \$16.5 million in 2020, as shown in the table above. This estimate assumes that these new revenues to the Solid Waste Disposal Account No. 5000 would be appropriated to TCEQ to be used to provide grant funding for solid waste planning to councils of governments throughout the state.

Although the bill would provide for funds in the Recycling Refund Trust Account to be used by the BCRC for matching grants or low-interest loans to fund water quality, waste reduction, recycling, or curbside redemption programs, as authorized in the bill's proposed Health and Safety Code, Section 376.104 (a) (5), this estimate does not assume that the remaining \$135.5 million unexpended balances in 2016 and increasing balances in future years would be appropriated for those purposes because the bill does not provide specific guidelines for the BCRC to operate such financial assistance programs. It should also be noted that the actual revenue stream for the proposed BCRIP could be higher or lower than the estimates in the table above, depending on the percentage of beverage containers that would actually be redeemed by consumers under the program.

Although the TCEQ could 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 local and regional solid waste projects to the extent that additional funding is available in the Recycling Refund Trust Account.

This estimate assumes that councils of government would receive the proceeds of funds deposited to the Solid Waste Management Account No. 5000 shown in the table above. This estimate assumes each council would receive pass-through funding from TCEQ in proportion to its population relative to the state population. The funds would be used for municipal solid waste planning and municipal solid waste recovery applied research and technical assistance as provided in Health and Safety Code, Section 316.014 (b).

The bill would create a Class C misdemeanor. A Class C misdemeanor is punishable by a fine of not more than \$500. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

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

LBB Staff: UP, SZ, MW, TL, KVe, KK, ZS, TB, PM