

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: HB3153 by Anderson, Rodney (Relating to a program for the recycling of certain household batteries; authorizing a fee; providing civil and administrative penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3153, 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 Savings/(Cost) from New General Revenue Dedicated–Covered Battery Recycling Account	Probable Revenue Gain/(Loss) from New General Revenue Dedicated–Covered Battery Recycling Account	Change in Number of State Employees from FY 2015
2016	(\$70,175)	\$70,175	1.0
2017	(\$65,975)	\$65,975	1.0
2018	(\$65,975)	\$65,975	1.0
2019	(\$65,975)	\$65,975	1.0
2020	(\$65,975)	\$65,975	1.0

Fiscal Analysis

The bill would establish a household battery recycling program. Applicable battery manufacturers would be prohibited from selling certain batteries in Texas unless they participate in an approved stewardship program. Producers would be allowed to implement a stewardship program individually or as part of a stewardship organization.

A stewardship program would be required to provide for the collection of batteries at no cost in each of the council of government areas. Each applicant for a stewardship program would be required to submit a proposal to the Texas Commission on Environmental Quality (TCEQ) including: a fee prescribed by the TCEQ; a list of producers and brands participating in the program; a description of the methods to be used to responsibly manage discarded covered batteries; a description of intended use of existing covered battery collection points; a description of a planned education and outreach program; a collection rate goal; and, for participants not operating a physical location in the state, a description of how the program will provide convenient, free, statewide collection opportunities.

The bill would require TCEQ to: approve or disapprove a proposed program submission not later than 30 days after receipt; provide in writing the reasons for disapproval and provide the organization 45 days to amend and resubmit the program; establish an application and annual report fee by rule; and deposit fees collected to the covered battery stewardship account. Each stewardship program would be required to submit an annual report and pay a fee.

The bill would establish the Covered Battery Stewardship Account in the General Revenue Fund. It would consist of fees, administrative penalties, civil penalties, and interest earned. The money would be appropriated to TCEQ to implement and administer the subchapter.

The bill would require the TCEQ and the Attorney General, as appropriate, to enforce the bill's provisions and take enforcement action against a producer, stewardship organization, retailer, or wholesaler, but specifies that the TCEQ would issue warning notices upon a first violation.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect immediately upon a two-thirds vote or on September 1, 2015. The commission would be required to adopt rules by February 1, 2016 and begin accepting plans by March 1, 2016. Producers would not be required to implement the program prior to September 1, 2016.

Methodology

This analysis assumes TCEQ would set a fee through rulemaking to provide enough revenue to cover the cost of the battery recycling program established by the bill, with proceeds of the fee being deposited to the newly-established Covered Battery Stewardship Account. The actual fee rate TCEQ would need to assess would depend on the number of battery manufacturers that would work together in joint stewardship programs. This estimate assumes that the fee would be set at a

rate sufficient to cover TCEQ's costs to implement the bill which would include costs for rulemaking, coordination with stewardship programs, compliance, the review of annual reports, and processing of fee revenues. It is estimated that 1.0 FTE would be needed to perform the duties required by the bill. Related costs are estimated at \$70,175 in fiscal year 2016 and \$65,975 in future fiscal years and would be paid out of the Covered Battery Stewardship Account as shown in the table above.

Local Government Impact

The TCEQ reports that some local governments that currently operate battery recycling programs at a cost could experience savings if the recycling program proposed by the bill would allow them to end their own programs. The savings would depend on the level of expenditure a local government is currently making for its battery recycling program in excess of any revenues that program may be generating.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

LBB Staff: UP, SZ, MW, TL, TBo