

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**March 20, 2017**

**TO:** Honorable Joseph Pickett, Chair, House Committee on Environmental Regulation

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

**IN RE: HB1874** 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 HB1874, As Introduced: an impact of \$0 through the biennium ending August 31, 2019.

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
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>New General Revenue Dedicated - Covered Battery Recycling Account</i>	Probable Revenue Gain from <i>New General Revenue Dedicated - Covered Battery Recycling Account</i>	Change in Number of State Employees from FY 2017
2018	(\$72,474)	\$72,474	1.0
2019	(\$68,274)	\$68,274	1.0
2020	(\$68,274)	\$68,274	1.0
2021	(\$68,274)	\$68,274	1.0
2022	(\$68,274)	\$68,274	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 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 in the account would be appropriated to TCEQ only to implement and administer the subchapter.

The bill would require TCEQ and the Attorney General (OAG), 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 executive director of TCEQ or the OAG may institute a suit to enjoin an activity related to the sale of a covered battery in violation of this subchapter. Any administrative or civil penalty collected for violations is deposited to the credit of the Covered Battery Stewardship Account. The bill would provide for a stewardship organization to bring civil actions against a producer to recover damages if certain requirements are met.

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, 2017. TCEQ would be required to adopt rules by February 1, 2018 and begin accepting plans by March 1, 2018. Producers would not be required to implement the program prior to September 1, 2018.

## 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 \$72,474 in fiscal year 2018 and \$68,274 in future fiscal years and would be paid out of the Covered Battery Stewardship Account as shown in the table above.

Based on the analysis of OCA and the OAG, duties and responsibilities for these agencies associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

## Local Government Impact

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.

OCA estimates that any increased caseload resulting from the bill would likely be absorbed by existing resources.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

**LBB Staff:** UP, SZ, MW, MSO, JSm