

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 18, 2017

TO: Honorable Robert Nichols, Chair, Senate Committee on Transportation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2174** by Darby (Relating to the regulation of motor fuel quality and motor fuel metering devices; authorizing fees.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2174, Committee Report 2nd House, Substituted: 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 Savings/(Cost) from General Revenue Fund 1 | Probable Revenue Gain/(Loss) from General Revenue Fund 1 | Probable Savings/(Cost) from Appropriated Receipts 666 | Probable Revenue Gain/(Loss) from Appropriated Receipts 666 |
|-------------|---|--|--|---|
| 2018 | \$137,723 | (\$137,723) | (\$3,651,837) | \$3,651,837 |
| 2019 | \$137,723 | (\$137,723) | (\$3,651,837) | \$3,651,837 |
| 2020 | \$137,723 | (\$137,723) | (\$3,651,837) | \$3,651,837 |
| 2021 | \$137,723 | (\$137,723) | (\$3,651,837) | \$3,651,837 |
| 2022 | \$137,723 | (\$137,723) | (\$3,651,837) | \$3,651,837 |

| Fiscal Year | Change in Number of State Employees from FY 2017 |
|--------------------|---|
| 2018 | (8.0) |
| 2019 | (8.0) |
| 2020 | (8.0) |
| 2021 | (8.0) |
| 2022 | (8.0) |

Fiscal Analysis

The bill would amend Texas Agriculture Code, Chapter 13, to define a "motor fuel metering device" and to require that inspection, testing, and calibration of motor fuel metering devices be performed by a license holder under contract with the operator or user of the motor fuel metering device. The bill would exempt the motor fuel metering devices from inspection and registration requirements for weighting and measuring devices. The bill would add inspection requirements for motor fuel metering devices, requiring that the devices be inspected at least once every two years. The bill would also add annual registration requirements for motor fuel metering devices; applications for registration must include a registration fee required by Texas Agriculture Code, Section 13.1151 to recover the costs of registration and inspection of the motor fuel metering devices. TDA would be prohibited from increasing this fee in a state fiscal biennium by an amount that exceeds ten percent of the amount of the fee at the end of the preceding state fiscal biennium. The bill would authorize a registration late fee to be assessed by TDA, not to exceed \$50 per device and \$500 per year for a premise. The bill would require that the specifications and tolerances for motor fuel metering devices be the same as those recommended by the National Institute of Standards and Technology. TDA would be required to receive complaints regarding motor fuel metering devices, to notify the person who last registered the device and, under certain circumstances defined by the bill, to require the device to be inspected by a license holder.

The bill would amend Texas Agriculture Code, Chapter 17, to require that sampling and testing activities of certain fuel mixtures be performed by a license holder under contract with the dealer. The bill would amend testing and sampling requirements to allow a contracted entity to perform them, and would require the contracted entity to follow certain collection, sampling, and handling procedures. Stop-sale orders or shutdown of dispensing devices would have to be based on laboratory results confirming a violation.

The bill would take effect September 1, 2017.

Methodology

TDA estimates that approximately 14.0 FTEs would be eliminated from the Fuel Quality program and the Weights and Measures program as a result of the privatization of certain inspection and registration activities. TDA estimates that approximately 8.0 of these FTEs are currently funded through cost-recovered General Revenue in the Weights and Measures program and have a total cost of \$477,315 for salaries and other benefits expenses each fiscal year. This analysis assumes that the savings associated with these 8.0 FTEs would be offset by a reduction in fee revenue deposited to the credit of the General Revenue fund. TDA estimates that 6.0 of the FTEs are currently funded through Appropriated Receipts in the Fuel Quality program and have a total cost of \$357,986 for salaries and other benefits expenses each fiscal year. This analysis assumes that the savings associated with these 6.0 FTEs would be offset by a reduction in fee revenue deposited as Appropriated Receipts. In addition, there is an indeterminate amount of savings associated with other operating expenses and miscellaneous administrative expenses as a result of elimination of

these functions.

TDA estimates that in order to verify the compliance of an increased number of license holders, 6.0 additional FTEs would be required (one Manager and five Program Specialists). This estimate assumes that the FTEs would be partially funded by cost recovery General Revenue in the Weights and Measures program and partially by Appropriated Receipts in the Fuel Quality program. The cost of the FTEs funded by General Revenue is estimated by this analysis to total \$339,592 each fiscal year; this analysis assumes that these costs would be offset by an increase in fee revenue deposited to the credit of the General Revenue fund. The cost of the FTEs funded by Appropriated Receipts is estimated by this analysis to total \$172,598 each fiscal year; this analysis assumes that these costs would be offset by an increase in fee revenue deposited as Appropriated Receipts.

TDA estimates that the bill's requirement that stop-sale orders or shutdown of dispensing devices be based on laboratory results confirming a violation would require increased laboratory analysis of fuel quality samples. This analysis assumes that the cost of the laboratory analysis of samples would be borne by TDA instead of the dealer. TDA estimates that 20,527 routine fuel quality samples would be required to be tested per biennium under the provisions of the bill, and 1,400 fuel quality samples are tested as a result of complaints per biennium. Testing each fuel quality sample costs \$350, according to the agency, for a total biennial cost of \$7,674,450, or \$3,837,225 each fiscal year. This analysis assumes that the cost of the contract would be recovered by fees as Appropriated Receipts in the Fuel Quality program each fiscal year.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 551 Department of Agriculture

LBB Staff: UP, MSO, AG, MW, CL