

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

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

**April 26, 2017**

**TO:** Honorable Tracy O. King, Chair, House Committee on Agriculture & Livestock

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

**IN RE:** **HB3587** by Zedler (relating to industrial hemp; requiring an occupational license; authorizing fees.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3587, Committee Report 1st 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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

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

<b>Fiscal Year</b>	<b>Probable (Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2017</b>
2018	(\$573,647)	\$573,647	6.0
2019	(\$497,505)	\$497,505	6.0
2020	(\$496,703)	\$496,703	6.0
2021	(\$496,703)	\$496,703	6.0
2022	(\$496,703)	\$496,703	6.0

## **Fiscal Analysis**

The bill would amend Texas Agriculture Code by adding Chapter 112, Production of Industrial Hemp. The bill would define several terms related to hemp production, and would require the Texas Department of Agriculture (TDA) to cooperate with selected institutes of higher education (IHEs) to establish an industrial hemp research program lasting at least 5 years, and to coordinate to study the use of industrial hemp in new energy technologies and promote awareness of financial incentives that could be available related to industrial hemp activities. TDA would be allowed to solicit and accept gifts, grants, and donations from public and private sources to fund these activities, and would be required to report annually on the research program to the governor and the legislature. The bill would require TDA to adopt rules to regulate industrial hemp production and to prescribe reasonable license application and renewal fees, inspection fees, and plant sample testing fees, which may be appropriated only to TDA for the purpose of administering the program.

The bill would allow TDA or the State Seed and Plant Board to certify industrial hemp seed and plants, cultivars, and clones, and would require suspension of certification if the collective yield and average samplings from inspections exceed the THC compliance threshold at the license holder's expense.

The bill would exempt industrial hemp grown or cultivated by TDA, an IHE, or a license holder, or a hemp-derived product that meets the THC compliance threshold, from the definition of "marihuana," in Texas Health and Safety Code, Section 481.002, and would exempt various hemp-related activities from violating Health and Safety Code provisions.

The bill would establish legislative intent that license holders would be responsible for growing and cultivating TDA-approved and certified industrial hemp that would meet THC compliance and other compliance laws; that manufacturers of hemp-derived products both for human consumption and not for human consumption be responsible for meeting the THC compliance threshold and complying with other applicable laws; and that wholesalers, retailers, and consumers of hemp-derived products be responsible for unknowingly buying or selling products that do not meet the THC compliance threshold.

This legislation 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. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would require TDA to adopt rules necessary to implement the provisions of this bill no later than January 1, 2018. The bill would take effect September 1, 2017.

## **Methodology**

The bill would require TDA, in cooperation with selected IHEs, to establish an industrial hemp research program, to study the use of industrial hemp in new energy technologies, and to promote awareness of relevant financial incentives. This analysis assumes that any administrative expenses incurred by TDA as a result of implementing this research program would not be significant and could be absorbed within existing resources. Based on responses from the Texas A&M University System, Texas Tech University System, and the University of Texas System, this analysis assumes that the cost of the research program studies could be absorbed using existing resources. Federal funding may be available for the research program, however, it cannot be determined if the state will receive any funding for this purpose.

TDA estimates that multiple inspections for each grower would be required, and that the occupational program would be implemented in a similar way as the nursery floral and seed certification programs, but with greater oversight. Based on the analysis of TDA, the cost of the new program would require 6.0 FTEs (2.0 inspectors, 2.0 program specialists, a laboratory technician, and an attorney) with associated costs for salaries, retirement, and other benefits of \$417,170 each fiscal year. Travel and operating costs for these FTEs would total \$156,477 in fiscal year 2018, \$80,335 in fiscal year 2019, and \$79,533 each subsequent fiscal year. These costs include expenses associated with IT startup and recurring data center expenditures. This analysis assumes that fee revenue generated as a result of application submissions and renewal and inspections would cover the costs of the program's expenses.

### **Technology**

TDA anticipates some expenses associated with IT startup and recurring data center expenditures.

### **Local Government Impact**

According to the Texas Municipal League, the fiscal impact to municipalities is not anticipated to be significant.

According to the San Antonio Police Department, the bill would have no fiscal impact on the Department.

According to the Texas Association of Counties, the bill would have no fiscal impact on counties.

**Source Agencies:** 304 Comptroller of Public Accounts, 551 Department of Agriculture, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 768 Texas Tech University System Administration

**LBB Staff:** UP, SZ, MW, MSO, RC, JGA