

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 11, 2019

TO: Honorable Drew Springer, Chair, House Committee on Agriculture & Livestock

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1325 by King, Tracy O. (Relating to the production and regulation of hemp and products made from hemp; requiring authorization to produce hemp; authorizing penalties; authorizing fees.), **Committee Report 1st House, Substituted**

There would be an indeterminate positive fiscal impact to the state due to the number of administrative penalties; the number of authorizations and renewals that would be issued; the number of inspections and tests that would be conducted; and amounts for authorization, testing, and inspection fees that would be established being unknown.

The bill would amend the Agriculture Code regarding the production of hemp. It would require the Texas Department of Agriculture (TDA), in consultation with the Governor, the Attorney General, and the Department of State Health Services (DSHS) to adopt rules regarding procedures for testing, enforcement, inspection, and administration of a hemp production program. TDA would be required to submit a state plan for monitoring and regulation of the production of hemp that contains the adopted rules to the U.S. Department of Agriculture. This analysis assumes TDA could accomplish this using existing resources.

The bill would give DSHS primary jurisdiction over the processing, manufacturing, packing, transport, sale, and use of consumable hemp products. DSHS has indicated that the provisions of the bill could be implemented using existing resources.

The bill would require TDA to adopt rules to establish a state hemp program to promote the cultivation and processing of hemp, promote the commercial sale of hemp products, and regulate hemp production in Texas and to establish a program for certification of hemp seeds. It would require TDA to set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the state hemp program. Fees collected under the bill's provisions would be deposited into the newly created State Hemp Program Account in the General Revenue Fund to be administered by TDA. In addition to other revenues, the bill would also require that penalties collected under the provisions of the bill would be deposited to the credit of the new account. The bill would require that money in the account could only be appropriated for the administration and enforcement of the state hemp program.

TDA indicates it is unable to estimate the number of applications it would receive from producers for industrial hemp, the number of authorizations it would issue each fiscal year, or the number that would renew in subsequent years. Similarly, TDA is not able to provide any amounts for the authorization, inspection, and plant testing fees that it would be required to establish under the requirements of the bill. The fiscal impact to the state cannot be determined due to the number of

authorizations and renewals that would be issued; the number of inspections and tests that would be conducted; and amounts for authorization, testing, and inspection fees that would be established being unknown.

The bill would allow only persons authorized by TDA under the state hemp program to cultivate, handle, or process hemp or to transport hemp outside the state. The bill would allow TDA to assess an administrative penalty of up to \$5,000 per violation against violators of the state hemp program. The fiscal impact to the state resulting from administrative penalties cannot be determined due to the number of penalties and the amount of fines that would be assessed is unknown.

Based on the analysis of the Comptroller of Public Accounts, the bill would create an indeterminate positive fiscal impact to the state from the fees and administrative penalties that would be assessed under the provisions of the bill.

The bill would take immediate effect if it received a two-thirds majority vote of members of both houses of the Legislature, otherwise it would take effect September 1, 2019.

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.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 551 Department of Agriculture

LBB Staff: WP, SZ, MW, PBO, SMi, AMa