

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 8, 2021

TO: Honorable DeWayne Burns, Chair, House Committee on Agriculture & Livestock

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3948 by King, Tracy O. (Relating to the production and regulation of hemp and consumable hemp products; providing administrative penalties; imposing and authorizing fees; creating a criminal offense.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3948, As Introduced : a negative impact of (\$1,197,984) through the biennium ending August 31, 2023.

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:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	(\$598,992)
2023	(\$598,992)
2024	(\$598,992)
2025	(\$598,992)
2026	(\$598,992)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Revenue Gain/(Loss) from General Revenue Fund 1</i>	<i>Probable Savings/(Cost) from State Hemp Program 5178</i>	<i>Probable Revenue Gain/(Loss) from State Hemp Program 5178</i>	<i>Probable Revenue Gain/(Loss) from New General Revenue Dedicated Consumable Hemp Product account</i>
2022	(\$598,992)	(\$95,666)	\$95,666	\$598,992
2023	(\$598,992)	(\$89,856)	\$89,856	\$598,992
2024	(\$598,992)	(\$89,856)	\$89,856	\$598,992
2025	(\$598,992)	(\$89,856)	\$89,856	\$598,992
2026	(\$598,992)	(\$89,856)	\$89,856	\$598,992

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	1.0
2023	1.0
2024	1.0
2025	1.0
2026	1.0

Fiscal Analysis

This bill would amend the Agriculture and Health and Safety Codes concerning the production and regulation of hemp and consumable hemp products. The bill would exempt higher education institutions conducting hemp research from fees, permits, preharvest testing, certification, and penalties and fees associated with the Agriculture Code's requirements for cultivating hemp. The bill would require a higher education institution that sells or transfers hemp to another person to comply with requirements for preharvest testing, documentation, and shipping otherwise exempt from the bill.

The bill would require that any laboratory performing testing required under the Agriculture Code for cultivation of hemp be required to report on concentrations of certain chemicals as defined in the bill. The bill would permit the transport of seedlings and other immature hemp plants into the state or intrastate by a license holder without a permit as long as the plants are not sold to another person. The bill would also establish a criminal offense for cultivating hemp without a license. The bill would set penalties for cultivating hemp without a license to include a \$500 administrative penalty on the first and second violations with the third and subsequent offenses being Class B misdemeanors.

The bill would establish a new General Revenue–Dedicated Consumable Hemp Product account administered by the Department of State Health Services (DSHS) and consisting of appropriations to the account by the legislature, public or private gifts or donations, fees and penalties related to consumable hemp products, and interest and income earned. The bill provides that use of funding in the account be only used by DSHS for administration and enforcement of the hemp program.

This bill would take effect September 1, 2021.

Methodology

The hemp program currently exists at the Texas Department of Agriculture (TDA) as a cost recovery program funded through General Revenue–Dedicated State Hemp Program Fund No. 5178. Based on information provided by TDA, this analysis assumes the agency would need 1.0 additional FTEs to implement the provisions of the bill. This includes 0.5 FTE for an Assistant Attorney General II (\$31,808 in annual salary plus \$10,344 in benefits) and 0.5 FTE for a Program Specialist III (\$27,801 in annual salary plus \$9,041 in benefits) with annual operating expenses of \$16,672 in fiscal year 2022 and \$10,862 each subsequent fiscal year. This analysis also assumes that TDA will adjust program fees to cover the total cost of the bill's obligations.

Consumable hemp fees are collected by the Department of State Health Services and deposited to the credit of the General Revenue Fund under current law. Under the provisions of the bill, these fees would be deposited to the credit of the General Revenue–Dedicated Consumable Hemp Product account created by the bill. This analysis assumes a decrease of \$598,992 in General Revenue each year with an offsetting increase to the newly established General Revenue–Dedicated account associated with this transfer.

Based on information provided by the Office of Court Administration, it is assumed that the establishment of a criminal offense for cultivating hemp without a license would not have a significant fiscal impact to the state court system.

Based on information provided by the Comptroller of Public Accounts, this analysis assumes the fiscal impact related to penalties and associated court cost revenues cannot be determined because the number of penalties that would be assessed is unknown.

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: 212 Office of Court Admin, 304 Comptroller of Public Accounts, 537 State Health Services, 551 Department of Agriculture

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