

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

April 15, 2025

TO: Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB728 by Johnson (Relating to an incentive program to promote beverage container recycling.), **As Introduced**

The fiscal implications of the bill cannot be determined due to the impact of compliance rates, market behavior, and future rulemaking for the newly created Beverage Container Recycling Refund Program (BCRRP) and the associated Recycling Refund Trust Fund (RRTF) being unknown. Additionally, any potential transfers to the state that would occur in calendar year 2037 or later due to an unmet recycling rate target (RRT) are also unknown.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would amend the Health and Safety Code to create a new Beverage Container Recycling Refund Program (BCRRP), create the associated new recycling rate target (RRT), create the Texas Beverage Container Recycling Consortium (TBCRC) which would maintain the RRTF in a depository selected by the TBCRC, and require the Texas Commission on Environmental Quality (TCEQ) to adopt rules to administer the BCRRP in consultation with the TBCRC and the Municipal Solid Waste Management and Resource Recovery Advisory Council (MSWMRRAC). The MSWMRRAC consists of council members appointed by the TCEQ Commissioners to review and evaluate the effect of state policies and programs on municipal solid waste management.

The bill would define beverage containers (BCs) and producers that are applicable to the BCRRP. The BCRRP would allow consumers who purchase at retail a beverage in a BC to return the BC to applicable redemption centers to receive refunds. The bill would direct producers to participate in and form the TBCRC as a nonprofit corporation designed for the purpose of creating and implementing a plan to meet and maintain the RRT of the BCRRP. The plan would be required to meet a RRT of an average biennial recycling rate for BCs sold, distributed in, or imported into the state of no less than 75.0 percent by January 1, 2035. The TBCRC may sue producers not in compliance with joining the TBCRC and may recover court costs and fees. Additionally, the TBCRC would approve operations as valid redemption centers under the BCRRP and establish procedures for the collection of BC deposits and payment of deposit refunds.

The bill would require the TBCRC to: (1) establish labeling standards for BCs to inform consumers of refund amounts for returned BCs; (2) establish quality standards for BCs accepted for refund; and (3) collect and provide information to TCEQ to determine the biennial recycling rate for BCs collected by the BCRRP. Additionally, the bill would require persons selling, distributing, or importing beverages into the state to meet the labeling standards established by the TBCRC, and that persons selling at retail in the state a beverage from a BC provide for the collection of a deposit on the BC in a manner established by the TBCRC.

The bill would require that money in the RRTF may only be allocated and spent for the following purposes: (1) the construction, operation, and maintenance of redemption centers; (2) the operation of technology-based redemption centers; (3) leasing agreements for and liability insurance on redemption centers; (4) refund payments to persons; (5) reimbursing a local government or independent entity operating a redemption center; (6) reimbursing a governmental or other entity that provides beverages free of charge to the public during a

declared disaster; (7) providing information to and educating consumers about the BCRRP; and (8) administering and managing the TBCRC. The bill would authorize the Comptroller of Public Accounts (CPA) to provide oversight by: (1) requiring the TBCRC to provide financial information; (2) conducting financial audits of the BCRRP; and (3) requiring the TBCRC to maintain reserves in an amount determined by the CPA in accordance with applicable financial accounting standards.

The bill would allow TCEQ to require the TBCRC to remit all or part of the money in the RRTF if the TBCRC does not meet the RRT two years after January 1, 2035. The CPA would be required to hold money remitted until the TBCRC or another organization provides a corrective plan to TCEQ to meet the RRT. CPA would release the money remitted to the TBCRC or other organization responsible upon TCEQ's approval of the plan. TCEQ may audit the TBCRC for accuracy and adherence to the RRT and the TBCRC would be required to reimburse TCEQ for the costs of the audit.

TCEQ would be required to adopt rules for the BCRRP by September 1, 2026, and may do so in the manner provided by law for emergency rules to facilitate the approval of the TBCRC. The requirement for producers to join the TBCRC would take effect on January 1, 2028. The requirements that persons meet labeling standards and provide for the collection of deposits established by the TBCRC would take effect on October 1, 2028.

Except for provisions of the bill listed above with differing effective dates, this bill would take effect on September 1, 2025.

According to CPA and TCEQ, it is assumed that any administrative costs associated with assisting in the development and oversight of the BCRRP, TBCRC, and RRTF, could be absorbed using existing resources. According to the Office of Court Administration (OCA), no significant fiscal implication to the state court system is anticipated as a result of potential suits related to non-participating producers for failure to join the TBCRC. According to the CPA, the potential transfers to the state that could occur in calendar year 2037 or later as a result of the TBCRC not meeting the RRT are unknown at this time. The BCRRP financial outcomes would depend on compliance rates, market behavior, and future rulemaking, therefore the fiscal impact cannot be determined at this time.

Note: 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

The fiscal implications of the bill cannot be determined at this time. According to TCEQ, there are potential revenue and cost implications for local government and municipal operations due to potential reductions in higher value materials entering a single-stream materials recovery facility (MRF). Although these fiscal impacts are currently unknown and may vary, revenues may be offset through the planned payments to curbside recycling programs for BCs recycled through MRFs. According to OCA, no significant fiscal implication to local courts is anticipated as a result of potential suits related to non-participating producers for failure to join the TBCRC.

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

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