

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 550 - SB 573

March 5, 2024

SUMMARY OF BILL: Enacts the *Tennessee Waste Reduction and Recycling Act (Act)*, which seeks to address packaging waste in this state, in various ways.

Establishes that this legislation will apply to producers, defined in the Act. Exempts the following individuals from the requirements of this legislation:

- Any person with less than \$1,000,000 in gross total revenue during the immediately preceding calendar year;
- A person who used less than one ton of covered materials for products sold or distributed within or into this state during the immediately preceding calendar year;
- A governmental entity of this state or a political subdivision of this state or;
- A nonprofit organization that is exempt from federal income taxation.

Requires the Department of Environment and Conservation (TDEC) to appoint a Producer Responsibility Program Advisory Board (Board) consisting of 13 members, to be administratively attached to TDEC; however, authorizes the TDEC to select a third-party facilitator to convene and provide administrative support to the Board. Requires that such members be appointed by July 1, 2024 and that the Board must meet no less than twice per year. Specifies that members are to serve without compensation, but are eligible for reimbursement for necessary travel and other expenses incurred. Requires such Board to advise and review the Product Responsibility Organizations (PROs) throughout the needs assessment process, the development of producer responsibility plan proposals (PRPPs) submitted to TDEC, and review annual reports required by this legislation.

Requires TDEC to consult with PROs and the Board in the development of PRPPs, approve or reject PRPPs, and administer, review, oversee, and enforce producer responsibility plans (PRPs). Further requires the department to compile, review, and update reports and lists on a specific timeline required by this legislation. Requires TDEC to promulgate rules necessary to implement and administer this Act.

Requires, by July 1, 2024, a producer to establish a PRO with certain requirements specified in the legislation. Requires, by July 1, 2025, each PRO to submit the results of the initial needs assessment to the TDEC and the Board and by July 1, 2026, each PRO to submit a PRPP. Upon approval by the TDEC, the PRO must begin implementation of the PRP within six months. Establishes a financing methodology for PROs and requires PROs to establish performance goals for each covered material, as defined by this legislation. Authorizes producers to, in lieu of participation in the general producer responsibility program, submit to the Board and the TDEC an annual individual PRP beginning July 1, 2025.

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Establishes that, on or after January 1, 2027, if the TDEC has approved a PRP, a producer is prohibited from selling or distributing any products packaged in covered materials in this state unless the producer is participating in either the PRO PRP or an individual PRP. Establishes that, on or after July 1, 2028, it is a violation of this Act to sell or distribute any packing which includes certain chemicals defined by this legislation and any other additional chemicals of high concern, as determined by TDEC.

Establishes annual reporting requirements applicable to PROs.

Effective, for the purposes of promulgating rules, upon becoming law. Effective July 1, 2023 for all other purposes.

FISCAL IMPACT:

**Increase State Expenditure - \$1,412,500/FY24-25
\$1,370,000/FY25-26 and Subsequent Years**

Other Fiscal Impact – Additional state expenditures may be incurred. Due to numerous unknown factors, the timing and totality of any such expenditures cannot be determined with reasonable certainty.

Assumptions:

- The 13-member Board must meet at least twice a year. For the purposes of this analysis, it is assumed that the Board will meet quarterly.
- Twelve members will claim travel reimbursement.
- The recurring increase in state expenditures, beginning in FY24-25, is estimated as follows:

Non-Legislative Member Reimbursement				
	Members	Per Mtg Cost/Member	Reimbursed Meetings/Year	
Mileage	12	\$160	4	\$7,680
Lodging	12	\$234	4	\$11,232
Per Diem	12	\$79	0	\$0
			Total:	\$18,912

- This legislation is similar to legislation in other states which are proliferating the use of extended producer responsibility programs, or “EPR.”
- No such states have become close to fully implementing an EPR program, despite the most early-adopter, Maine, having passed relevant legislation in 2021. Based on public information, it will be several years before Maine’s EPR program could be considered fully-functioning.

- The number of producers in this state which would be required to meet the obligations set forth in this legislation is estimated to exceed 1,000 businesses.
- Based on information provided by the TDEC, the Department will need 14 additional environmental scientist-2 positions and 3 additional administrative assistant-2 positions.
- It is assumed that these positions will be filled on July 1, 2024 or in FY24-25, in order to start aiding PROs with the development of PRPPs.
- The total recurring increase in state expenditures is as follows:

Title	Salary	Benefits	Supplies + Training + Rent+ Travel	# Positions	Total
TDEC Environmental Scientist-2	\$59,496	\$17,478	\$2,500	14	\$1,112,641
Administrative Assistant-2	\$59,496	\$17,478	\$2,500	3	\$238,423
				Total:	\$1,351,065

- There will be a one-time increase in state expenditures in FY24-25 of \$42,500 for computer + office furniture.
- There will be an increase in state expenditures in FY24-25 of \$1,412,477 (\$18,912 + \$1,351,065 + \$42,500).
- There will be a recurring increase in state expenditures in FY25-26 and subsequent years of \$1,369,977 (\$18,912 + \$1,351,065).
- There will be no significant increase in revenue from collection of additional civil penalties.
- The proposed legislation does not explicitly authorize the imposition of fees; therefore, it is assumed no fees will be imposed and there will not be an increase in revenue to TDEC.
- The Board can produce, review, and update the required reports and lists without significant additional expenditures to the state.
- This legislation could result in additional state expenditures for contracts with, but not limited to, environmental consultations groups and public and private recycling centers. Additionally, dependent upon the ultimate size of the program as a whole, the TDEC could require additional positions to effectively carryout the provisions of this Act. Due to numerous unknown factors, any additional expenditures cannot be determined with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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