LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

February 23, 2003

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB600** by Wolens (Relating to the regulation and reform of certain lines of insurance; providing a penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB600, As Introduced: a negative impact of ($44,000,000) through the biennium ending August 31, 2005.

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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	($22,000,000)
2005	($22,000,000)
2006	($22,000,000)
2007	($22,000,000)
2008	($22,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Savings/ (Cost) from *DEPT INS OPERATING ACCT* 36	Probable Revenue Gain/(Loss) from *DEPT INS OPERATING ACCT* 36	Change in Number of State Employees from FY 2003
2004	($22,000,000)	($576,935)	$576,935	7.8
2005	($22,000,000)	($533,323)	$533,323	7.8
2006	($22,000,000)	($533,323)	$533,323	7.8
2007	($22,000,000)	($533,323)	$533,323	7.8
2008	($22,000,000)	($533,323)	$533,323	7.8

Fiscal Analysis

The bill would amend and repeal numerous sections and articles in the Insurance Code to replace the current flexible rate program for certain insurance lines, to expand the type of insurers subject to regulation by the Texas Department of Insurance (TDI), and to require an insurance rate rollback to January 2001 levels.

The bill would repeal Articles 5.101 and associated provisions that establish and define the coverage of the flexible rating program, which applies to certain property and casualty insurance lines, including motor vehicle and homeowners' insurance. These lines would become subject to maximum rate regulation by the Texas Department of Insurance (TDI), as established under existing Articles 5.01 and 5.26. In addition, the bill would eliminate certain regulatory exemptions applicable to county mutual, Lloyd's plan, and reciprocal exchanges and include them under Articles 5.01 and 5.26.

The bill would add Article 5.26-1 to require each insurer subject to Insurance Code Chapter 5 to reduce its rates to levels no greater than the rates in effect on January 1, 2001 for the same coverage. These rates would have to remain in effect until the Commissioner approved new rates under Article 5.26.

The bill would prohibit the use of credit and insurance scoring as an underwriting guideline.

The bill would require insurers planning to reduce their premium volume in the state by 50 percent or more to file a plan for orderly withdrawal with the Commissioner. Under current law, the reduction threshold is 75 percent. The bill would not allow any insurer that withdraws from either private passenger auto or residential property insurance to write any insurance line in the state for five years, unless otherwise approved by the Commissioner. Under current law, this prohibition only applies to insurers attempting to withdraw from all insurance lines in the state.

Finally, the bill would forbid any insurer to restrict writing new private passenger auto or residential property insurance without the Commissioner's approval. The bill would prohibit the Commissioner from approving any restriction plan unless the Commissioner determined that it would not have an adverse effect on insurance affordability or availability in the state.

The bill would take effect June 1, 2003, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2003.

Methodology

This bill would reduce insurance premium rates to those in effect on January 1, 2001. Since the 2001 rates are significantly lower than current rates, it is assumed that the rate rollback will have an impact on insurance premium tax collections. Furthermore, the amount of time the reduced rates will be in effect is indeterminable so reductions in premiums for rate reductions may not be immediately offset by increases in premiums for additional coverage.

Based on an example provided by the Comptroller of Public Accounts, if the proposed rate rollback was only applied to homeowners' insurance, it could result in an annual insurance premium tax loss of more than $22 million. This assumes that the average initial effect would be to cut premiums by approximately 35 percent, or $430, for more than 3.3 million policies.

The Texas Department of Insurance would require an additional 7.75 full-time-equivalent (FTE) employees each year, with a total cost of $576,935 in fiscal year 2004 and $533,323 in each subsequent year.

Of this increase, $337,746 in fiscal year 2004 and $417,852 in each subsequent year is for costs related to an addition of 4.25 Actuary IV FTEs to the agency's Property and Casualty section. To handle approximately 350 additional private passenger auto filings for review resulting from the move of companies not currently rate-regulated to a prior approval system the agency would require 0.75 FTE (Actuary IV). To handle preparation for private auto rate hearings, 0.5 FTE (Actuary IV) would be required. Because the agency anticipates an increase of approximately 350 property insurance filings under a prior approval system, 0.75 FTE (Actuary IV) would be needed to review additional filings. According to the agency, one FTE (Actuary IV) would be required to handle the review of additional filings and preparation for hearings related to deviations for commercial auto filings. To assist in promulgating rates for commercial fire insurance, the agency would require 0.25 FTE (Actuary IV). The agency would require one FTE (Actuary IV) to review both auto and residential property insurance underwriting guidelines.

The remaining $239,189 in fiscal year 2004 and $215,472 in each subsequent year is for costs related to an addition of 2.5 Attorney IV FTEs, 0.5 Legal Assistant IV FTEs, and 0.5 Insurance Specialist IV FTEs to the agency's Legal and Compliance section. This total includes 1.5 FTEs (Attorney IV) to handle an anticipated increase of 10 enforcement cases resolved through hearings and 21 resolved through negotiation, and one FTE (Attorney IV) to provide support in the rule and rate making process. To handle an anticipated additional 2400 open records requests per year to the Property and Casualty division related to underwriting guides, the agency would require 0.5 FTE (Legal Assistant IV). To process and store underwriting guides for the 2000 companies required to file them, the agency would require 0.5 FTE (Insurance Specialist IV).

It is anticipated that the agency would increase the insurance maintenance tax fees to offset the cost of implementation.

Technology

The agency would require $12,771 in additional funding in 2004 for computer equipment and software for 7.75 FTE positions.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:	302 Office Of The Attorney General, 304 Comptroller Of Public Accounts, 359 Office Of Public Insurance Counsel, 360 State Office Of Administrative Hearings, 454 Department Of Insurance, 453 Workers' Compensation Commission
LBB Staff:	JK, JRO, JO, WP, RB, DLBe