

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 24, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB14 by Jackson, et al. (relating to the regulation of residential property and automobile insurance.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB14, Committee Report 1st House, Substituted: an impact of \$0 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.

According to the Comptroller of Public Accounts, the bill would not significantly change the amount of insurance premium taxes. To the extent that the provisions of this bill are effective in restraining unfair or unwarranted premium increases, it would exert some downward pressure on premium tax collections. However, to the extent that its provisions are equally effective in promoting insurance availability, it would encourage premium and premium tax growth.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>DEPT INS OPERATING</i> <i>ACCT</i> 36	Probable Savings/(Cost) from <i>DEPT INS OPERATING</i> <i>ACCT</i> 36	Change in Number of State Employees from FY 2003
2004	\$766,235	(\$766,235)	12.0
2005	\$699,973	(\$699,973)	12.0
2006	\$699,973	(\$699,973)	11.0
2007	\$655,582	(\$655,582)	11.0
2008	\$655,582	(\$655,582)	11.0

Fiscal Analysis

The bill would replace the flex system (Article 5.101) as the rate filing system for all residential property and personal automobile insurance, and define insurers as all authorized entities including

Lloyds, county mutuals, etc. and authorized affiliates described under Section 823.003 (a) of the Insurance Code, but would not include a farm mutual insurance company. The bill would also specify that the term insurer does not include, Texas Windstorm Insurance Association, FAIR Plan Association or Texas Automobile Insurance Plan Association.

The bill would require insurers to file rates and related information with the Texas Department of Insurance. The Commissioner would be required to approve the rate if acceptable or deny if unacceptable not later than the 30th day after the date the rate is filed with the Department or the rate will be deemed approved. The Commissioner may extend the period another 30 days if necessary. If the Department requests additional information from the insurer, the time between the request for additional information and the response from the insurer does not count toward the 30 day time periods. Rates may not be "excessive, inadequate, unreasonable or unfairly discriminatory for the risks to which they apply." Audit of submitted rate data can be required by the Commissioner.

Filings are subject to disclosure under Chapter 552 of the Government Code, and insureds, the Office of Public Insurance Counsel or any other interested person may make a written application for a hearing. If the Commissioner finds the application was made in good faith and is justified, a hearing is required to be held. After the hearing the Commissioner has 30 days to disapprove the rate or it is deemed approved.

The Commissioner may disapprove filings, but must specify the reasons it fails to comply, and hold a hearing within 30 days of the effective date of the order if requested by the insurer in writing. The Commissioner may withdraw the approval of a rate after notifying the insurer and a hearing.

The bill would limit or restrict the use of credit scores used in whole or in part by insurers to determine whether to issue, cancel or renew a policy, the amount, duration or terms of coverage, or rates or fees. The bill would provide for consumer disclosures and rights relating to the use of credit scores and would require insurers to file with the Commissioner insurance credit score models or methodologies for residential property and personal automobile insurance. If the Commissioner determines that an insurer has violated any provision of the new article, the insurer would be subject, after notice and opportunity for hearing, to sanctions.

The Commissioner would be required to submit a "Quarterly Legislative Report" to the legislature on insurer's submissions of loss, premium and market share.

The Commissioner would be required to adopt rules necessary for implementation of the bill within 120 days of the effective date.

The bill would take effect immediately if it receives two-thirds vote from both houses. If it does not receive the necessary votes then it would take effect on September 1, 2003.

Methodology

The Texas Department of Insurance (TDI) estimates that 2.5 additional FTEs (Actuary IV) would be needed to review additional auto and property policy filings and additional auto and property company rating manuals. A move to a prior approval system would eliminate the need for benchmark rate hearings. TDI estimates that a savings of .5 FTE (Actuary IV) would result from the elimination of these hearings. The overall result of moving to a prior approval system would result in an increase of 2 FTE (Actuary IV) at an annual salary of \$112,872.

TDI estimates the need for 3 additional FTEs (Insurance Specialist III), at an annual salary of \$96,946, to handle additional filings by auto and residential insurers that would file their own policy forms. As the need for maintaining existing manuals and promulgated forms declines, existing staff would be able to absorb some of this work. Consequently, the additional staff requirement would fall from 3 FTEs to 2 FTEs in fiscal year 2007.

TDI would require .75 actuarial FTE (Actuary IV), with a total annual salary of \$42,327, to ensure compliance with underwriting standards set by the commissioner for credit models.

TDI currently does not have the information needed to maintain a list of fire and lightning losses in excess of \$100. TDI would either amend the existing statistical plan to gather this information or establish a special data call to collect the data. This work could be handled by existing staff.

Implementation of the bill would require 1.5 FTEs (Attorney IV), with a total annual salary of \$74,610, in the Regulated Lines Counsel. The attorneys would be necessary in order to meet the numerous deadlines specified in this bill, given the highly technical nature of the bill and the amount of existing regulations that will need to be concurrently repealed, amended and have new rules adopted. The attorneys would also assist with rate filings required by this bill, required hearings, detailed orders if rate filings are disapproved, and drafting of reports required by the bill.

TDI also estimates the need for 2.25 FTEs (Attorney III) with a total annual salary of \$98,793, to handle 6 additional major form filings cases per year, 40 additional cases related to the use of credit scoring for underwriting purposes per year, and an increased volume of open records and referrals to the Office of the Attorney General (OAG).

TDI would need 2 additional FTEs (one Investigator VI and one Legal Secretary II), with a total annual salary of \$65,556, to provide assistance to attorneys for additional cases related to Commissioner disapproval of filings.

TDI would spend \$103,413 in fiscal year 2004, \$37,151 in fiscal years 2005 and 2006, and \$34,273 in fiscal years 2007 and 2008 for travel, telephones, supplies, equipment, and other expenses related to the additional FTEs.

It is assumed the OAG could handle the increased volume within existing resources.

Technology

The Texas Department of Insurance indicates it would require an additional \$24,948 in fiscal year 2004 for the purchase of computers and related equipment for new staff.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: JK, JO, JRO, RB