

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 27, 2005

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

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB998 by Eiland (relating to insurance market conduct surveillance; imposing sanctions.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB998, Committee Report 1st House, Substituted: a negative impact of (\$611,372) through the biennium ending August 31, 2007.

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
2006	(\$316,578)
2007	(\$294,794)
2008	(\$294,794)
2009	(\$294,794)
2010	(\$294,794)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>INSURANCE MAINT TAX FEES</i> 8042	Change in Number of State Employees from FY 2005
2006	(\$316,578)	5.0
2007	(\$294,794)	5.0
2008	(\$294,794)	5.0
2009	(\$294,794)	5.0
2010	(\$294,794)	5.0

Fiscal Analysis

The bill would amend the Insurance Code relating to insurance market conduct surveillance; imposing sanctions. The bill would codify new procedures related to how the Texas Department of Insurance (TDI) would perform its market conduct oversight function. The bill encourages TDI to perform other activities from TDI's offices, such as making inquiries in lieu of performing desk-examinations or on-site examinations where possible. It authorizes TDI to contract with personnel to perform various activities including examinations and market conduct surveillance. Various National Association of Insurance Commissioners (NAIC) handbooks and procedures are invoked as guides for performing these activities, and TDI would be required to deliver data to be included in certain NAIC regulatory databases. TDI would also be responsible for market conduct functions related to Texas domestics and its ability to freely examine non-domestic insurers would be limited.

The Commissioner would be required to send insurers, at least annually, an update regarding new laws, rules, and enforcement actions. The Commissioner would also be required to designate a staff person as the point of contact for employees of regulated entities to report violations by their employers.

The bill authorizes the Commissioner to impose sanctions for violations detected through market conduct oversight. However, the bill requires the Commissioner, in determining an appropriate sanction, to consider whether the insurer is a member of and complies with the standards of a best-practice organization and the extent to which the insurer maintains an internal regulatory compliance program.

The effective date of this bill is September 1, 2005.

Methodology

The Department of Insurance estimates that the Financial Analysis Market Conduct Examinations Division will require three entry-level Financial Examiner III's (Pay Group B11) to conduct additional market conduct analysis work required by enactment of this bill. Each new Financial Examiner III would review and complete market conduct analyses on approximately 50 insurers per year, and complete approximately 10 desk examinations which are more targeted and limited in scope and oriented towards those companies which generally have more substantial regulatory concerns based on the market conduct analyses. The cost for implementing the provisions of this bill is estimated to be \$198,731 in FY 2006 and \$185,722 in FY 2007-2010.

TDI estimates that the Legal and Compliance Division will require two additional staff to include one Attorney III (Pay Group B11) to handle additional market conduct appeals that would be required by this bill and one Investigator VII (Pay Group B13) to gather information and perform high level analysis on out-of-state market conduct exams. The cost for implementing the provisions of this bill is estimated to be \$198,731 in FY 2006 and \$185,722 in FY 2007-2010.

The cost for implementing the provisions of this bill is estimated to be 316,578 in FY 2006. Financial Examiner III = \$111,996 (3 FTEs at \$37,332), one Investigator VIII at \$42,216, one Attorney II at \$37,332, travel = \$30,585, other operating expenses = \$8,110, equipment = \$21,784, telephone = \$6,030, consumable supplies = \$1,560, and employee benefits for 5.0 FTEs = \$56,965 for a total of \$316,578 for fiscal year 2006. In FY 2007-2010 there would be a cost of \$294,794 which includes the following costs: Financial Examiner III = \$111,996 (3 FTEs at \$37,332), one Investigator VIII at \$42,216, one Attorney II at \$37,332, travel = \$30,585, other operating expenses = \$8,110, telephone = \$6,030, consumable supplies = \$1,560, and employee benefits for 5.0 FTEs = \$56,965 for a total of \$294,794 for fiscal year 2007-2010.

Technology

According to TDI, the implementation of the bill will result in a cost for the legal and compliance programs of \$7,810 for FY 2006 for desktop computers and software for new staff to complete market conduct analyses and desk-exams. It is assumed that costs associated with implementing the provisions of this bill can be absorbed within the agency's current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: JOB, JRO, MW, NV