

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 22, 2007

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions & Investments

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

IN RE: HB2421 by Keffer, Jim (Relating to funding of the emergency services retirement trust fund and the statewide wildfire protection plan.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2421, As Introduced: a negative impact of (\$188,270,000) through the biennium ending August 31, 2009.

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
2008	(\$92,744,000)
2009	(\$95,526,000)
2010	(\$98,392,000)
2011	(\$101,344,000)
2012	(\$104,384,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain from <i>General Revenue - Wildfire Protection Account</i>	Probable Revenue Gain from <i>EMERGENCY SERVICES RET SYSTEM 976</i>
2008	(\$92,744,000)	\$92,433,000	\$2,000,000
2009	(\$95,526,000)	\$98,592,000	\$2,000,000
2010	(\$98,392,000)	\$101,458,000	\$2,000,000
2011	(\$101,344,000)	\$104,410,000	\$2,000,000
2012	(\$104,384,000)	\$107,450,000	\$2,000,000

Fiscal Analysis

The bill would amend the Insurance Code to impose a \$1 surcharge, to be administered by the Comptroller, on each insurer for certain insurance policies. From these surcharge receipts, \$1 million would be deposited into Fund 0976, Emergency Services Retirement System, and any receipts in excess of \$1 million would be deposited into a segregated account in General Revenue that could be appropriated only to the Texas Forest Service to administer the statewide wildfire protection plan.

The bill would amend the Insurance Code to allocate \$1 million of the premium taxes attributable to fire and allied lines of insurance to Fund 0976, Emergency Services Retirement System. Any of these premium taxes in excess of \$1 million would be deposited to the same segregated account in the

General Revenue Fund that could be appropriated only to the Texas Forest Service to administer the statewide wildfire protection plan.

The bill would amend the Education Code to establish the Wildfire Protection Account as a segregated account in the General Revenue Fund.

The bill would amend the Government Code to establish the Emergency Services Retirement Account as a segregated account in the General Revenue Fund. Funds in this account could be appropriated only to the State Board of Pension System for deposit to Fund 0976, Emergency Services Retirement System.

The bill would take effect immediately upon a two-thirds vote in each house; otherwise the bill would take effect September 1, 2007. The \$1 surcharge on certain insurance policies would be added only on policies delivered, issued for delivery, or renewed on or after September 1, 2007.

Methodology

Based on the analysis of the Comptroller of Public Accounts (CPA), the provisions of the bill that allocate insurance premium tax revenues to dedicated accounts instead of General Revenue Account 0193, Foundation School Fund, would appear to be in conflict with the constitutional dedication of 25 percent of revenue derived from occupation taxes to General Revenue Account 0193, Foundation School Fund.

The calculation of premium tax revenue for fire and allied lines is based on information provided by the Texas Department of Insurance (TDI). Since the premium tax is not levied by individual line of insurance, the estimate reflects only that portion of the revenue that would be available after accounting for the constitutional dedication of occupation tax revenues. Accordingly, this analysis assumes that only the amount of revenue which is not constitutionally dedicated to the Foundation School Fund that would be generated by the insurance premium tax would be available.

Based on the analysis of the CPA, it is presumed that the emergency services retirement trust fund in the bill would be the Emergency Services Retirement Trust Fund 0976, which was established in 1977 and later codified as Government Code Section 865.009. Although the bill would also seem to establish that the emergency services retirement account as a segregated account in the General Revenue Fund, this analysis does not presume the bill would create two accounts.

Based on the analysis of the CPA, the provisions of the bill that would levy a surcharge on multiple peril crop insurance appear to conflict with the federal preemption of state taxation of crop insurance. For the purposes of this analysis, the calculation of the surcharge revenue that would fund the Wildfire Protection Account and Fund 0976 reflects only those policies for which TDI could provide information: fire and allied, homeowner multiple peril, and the non-liability portion of commercial multiple peril. No information is available for inland marine, earthquake, or multiple peril crop insurance. In addition, federal law would likely preempt a state surcharge on the latter. For the purposes of this analysis, the fiscal impact for 2008 in the table above reflects a partial year collection and assumes that the surcharge would only be applied on policies between September 1 and December 1, 2007. For succeeding years, it was assumed that the surcharge deposited each June 15 would be based on policies in effect for the previous calendar year.

Based on the analysis TDI, it is assumed that there would be a one-time revenue gain of \$8,400 in the General Revenue Dedicated Account Fund 36 in fiscal year 2008 because the bill would result in 84 filings, each accompanied by a \$100 filing fee. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all revenue generated would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year.

The Texas Forest Service indicates that if funds from this bill were appropriated to that agency it would use the funds to support the Texas Wildfire Protection Plan. Based on the analysis of TDI and the CPA, it is assumed that both of those agencies could absorb any costs associated with implementing the provisions of the bill.

The bill 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 State Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance, 576 Texas Forest Service

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