

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 14, 2007**

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

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

**IN RE: HB2960** by Smithee (Relating to the operation and funding of the Texas Windstorm Insurance Association.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2960, As Engrossed: an impact of \$0 through the biennium ending August 31, 2009.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings from <i>DEPT INS</i> <i>OPERATING ACCT</i> 36	Probable Revenue (Loss) from <i>DEPT INS</i> <i>OPERATING ACCT</i> 36	Probable Revenue Gain from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042	Probable (Cost) from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042
2008	\$1,000,000	(\$1,000,000)	\$1,000,000	(\$1,000,000)
2009	\$1,000,000	(\$1,000,000)	\$0	\$0
2010	\$1,000,000	(\$1,000,000)	\$0	\$0
2011	\$1,000,000	(\$1,000,000)	\$0	\$0
2012	\$1,000,000	(\$1,000,000)	\$0	\$0

Fiscal Year	Probable Savings from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042	Probable Revenue (Loss) from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042	Change in Number of State Employees from FY 2007
2008	\$0	\$0	0.0
2009	\$833,280	(\$833,280)	(32.0)
2010	\$833,280	(\$833,280)	(32.0)
2011	\$833,280	(\$833,280)	(32.0)
2012	\$833,280	(\$833,280)	(32.0)

**Fiscal Analysis**

The bill would amend Insurance Code Chapters 2210 and 2251, relating to the operations and funding of the Texas Windstorm Insurance Association (TWIA). The bill would remove fire insurance from

the purpose of Chapter 2210, and it would restrict the purpose only to include the state's coastal counties.

The bill would amend Chapter 2210 to revise the funding procedures and assessment schedule to cover TWIA's excess losses, including the making of payments from the Catastrophe Reserve Trust Fund (CRTF). This bill would eliminate the premium tax credit and all insurer assessments. In their place, the bill would require that losses be paid from TWIA's available reserves, the CRTF, reinsurance, and public securities.

The bill would establish procedures for TWIA to issue pre-event and post-event public securities. At the request of TWIA, and with the approval of the Commissioner of Insurance, the Texas Public Finance Authority could issue public securities in varying amounts, depending on the schedule established by the bill.

The public securities issued under the new bill would be payable from the Public Security Obligation Revenue Fund, which would consist of TWIA's authorized revenue sources and from service fees administered by TWIA and assessed against member insurers as well as other TWIA revenues. Fees to service the public securities issued before or after a catastrophic event could be collected from policyholders in the catastrophe area; and fees to service the public securities issued to cover certain excess losses, as defined by the bill, could be collected from policyholders throughout the state.

The fee would be collected from policyholders in the form of a premium surcharge, which would be set by TWIA, with the approval of the Commissioner of Insurance, and in an amount sufficient to cover all security debt service and related expenses. The premium surcharge would be paid to TWIA and would apply to all property and casualty insurance lines except workers' compensation, accident and health, and medical malpractice. The policy surcharge would be a separate charge in addition to premiums collected and would not be subject to the insurance premium tax.

The bill would prohibit surplus lines insurers from membership in TWIA, but it would require a surplus lines policy fee equal to five percent of the total policy premium on all premiums collected after January 1, 2008. The bill would establish solvency requirements for TWIA and require TWIA to issue compliance certificates for structures that qualify for coverage. The bill would also require the Texas Department of Insurance (TDI) fund the mitigation and preparedness plan using available funds.

Provisions of the bill not relating to Sections 2210.251, 2210.252, 2210.254, and 2210.225 of the Insurance Code would take effect immediately upon a two-thirds vote, and otherwise take effect September 1, 2007. Provisions of the bill relating to Sections 2210.251, 2210.252, 2210.254, and 2210.225 of the Insurance Code would take effect September 1, 2008.

## **Methodology**

Under current law TDI is responsible for inspecting structures that are constructed, repaired or to which additions are made for the purpose of obtaining the certificate of compliance that is necessary to obtain insurance from TWIA. It is assumed that the transfer of this responsibility to TWIA at the beginning of fiscal year 2009 would result in a reduction at TDI of 32 FTEs. Salaries and associated expenses for these FTEs total \$883,280 each fiscal year. Since TDI is required to generate revenues equivalent to its costs under current law, this analysis assumes that all savings incurred as a result of the bill would result in an equivalent decrease in insurance maintenance tax revenues.

Under current law TDI uses \$1,000,000 in investment income from the trust fund to pay for the mitigation and preparedness plan. This analysis assumes this function would continue at TDI throughout fiscal year 2008 and would transfer in 2009. Since TDI is required to generate revenues equivalent to its costs under current law, this analysis assumes that savings would be realized as a result of the elimination of this requirement and that an equivalent revenue loss to General Revenue Dedicated Account Fund 36 would be incurred for this purpose; however, a like gain in insurance maintenance tax revenues would also be realized in 2008 to cover the costs of continuing operations through the end of 2008.

Based on the analysis of the Comptroller of Public Accounts, it is assumed that the bill would repeal the tax credit under current law that insurers subject to the CRTF are allowed to take against their insurance premium tax liability. Because future credits cannot be predicted, this analysis does not assume that provision of the bill would have a fiscal impact on the state. However, in the event that a future covered catastrophe of such magnitude were to occur to elicit creditable TWIA assessments, it is assumed that implementation of the provisions of the bill would result in a positive fiscal impact to the state relative to current law.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 347 Public Finance Authority, 454 Department of Insurance, 304 Comptroller of Public Accounts

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