

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 3, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

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

IN RE: **HB3073** by Creighton (Relating to the transfer of responsibility for the National Flood Insurance Program from the Texas Commission on Environmental Quality to the Texas Water Development Board and the administration and funding of the program.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3073, Committee Report 1st House, Substituted: a negative impact of (\$211,000) 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	(\$211,000)
2009	\$0
2010	(\$211,000)
2011	\$0
2012	(\$211,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from FOUNDATION SCHOOL FUND 193	Probable Savings/ (Cost) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from Floodplain Management Account
2008	\$5,942,000	(\$53,000)	(\$6,100,000)	\$6,100,000
2009	\$0	\$0	\$0	\$0
2010	\$5,942,000	(\$53,000)	(\$6,100,000)	\$6,100,000
2011	\$0	\$0	\$0	\$0
2012	\$5,942,000	(\$53,000)	(\$6,100,000)	\$6,100,000

Fiscal Year	Probable Savings/ (Cost) from Floodplain Management Account	Change in Number of State Employees from FY 2007
2008	(\$2,167,824)	6.0
2009	(\$2,744,894)	9.0
2010	(\$2,985,597)	9.0
2011	(\$3,158,656)	9.0
2012	(\$3,357,570)	9.0

Fiscal Analysis

The bill would transfer responsibility for the National Flood Insurance Program (NFIP), including all powers, duties, records, assets, property, funds, and appropriations from the Texas Commission on Environmental Quality (TCEQ) to the Texas Water Development Board (TWDB) no later than January 1, 2008.

The bill is contingent on the Eightieth Legislature appropriating at least \$6.1 million to the TWDB for the 2008-09 biennium for the purpose of administering the NFIP; if the Legislature does not appropriate at least this amount to the agency, the bill would have no effect.

The bill would expand the TWDB's duties related to the management of the NFIP by requiring that the TWDB make floodplain maps and floodplain information accessible to the public, including in an electronic format through the TWDB's website, and that the TWDB provide public education and outreach through the agency's field offices to encourage participation in the NFIP.

The bill would require that each biennium the first \$6.1 million of the maintenance taxes collected under Insurance Code Subtitle C and deposited in the General Revenue Fund be deposited to the Floodplain Management Account. The bill would establish the Floodplain Management Account as a special fund in the State Treasury outside the General Revenue Fund. The account would consist of the allocation of insurance maintenance taxes (\$6.1 million per biennium); appropriations; gifts; and grants, and it would be managed by TWDB to fund the performance of its duties with respect to the management of the NFIP.

Methodology

According to the Comptroller's Office, the insurance maintenance tax imposed under Insurance Code Subtitle C applies broadly to "fire and allied lines," which include damage and loss from fire, flood, hail, windstorm, earthquake, invasion, insurrection, bombardment, and 18 other lines. Subtitle C directs the Commissioner of Insurance to adjust the maintenance tax rate annually, subject to a maximum rate, so that the tax imposed that year, taking into account any unexpended balances, produces the amount necessary to pay the expenses the succeeding year of regulating all of the lines of insurance under Subtitle C. For the purposes of this fiscal note, it was assumed that the Commissioner of Insurance would increase maintenance taxes to generate sufficient revenue to offset the \$6.1 million loss and cover the necessary expenses associated with regulating the lines of insurance under Subtitle C.

According to the Comptroller's Office, an increase in insurance maintenance tax rates would have two negative retaliatory tax implications. First, the higher effective insurance taxes imposed by this state would cause Texas-based insurance companies to face higher retaliatory taxes in other states, raising their costs of doing business and making them less competitive in those states. Second, the higher insurance taxes levied by this state would reduce the amount of retaliatory taxes collected by Texas on insurance companies based in other states. It was estimated that a \$6.1 million increase in maintenance taxes would trigger a corresponding reduction in retaliatory taxes of \$211,000. Because of the constitutional dedication of occupation taxes, the retaliatory tax loss would be split 75/25 between the General Revenue Fund and the Foundation School Fund No. 193.

Administration of the NFIP is funded by the Federal Emergency Management Agency (FEMA) at a 75/25 cost share. The FEMA share of the \$335,000 annual cost to administer the program is estimated to be \$250,000, with a corresponding state share of \$85,000 out of the GR-Dedicated Water Resource Management Account No. 153. These funds would be transferred from the TCEQ to the TWDB as part of the proposed legislation; these funds, however, are not included in the estimates provided in this fiscal note.

Given that the transfer of the NFIP from the TCEQ to the TWDB is to happen no later than January 1, 2008, many of costs for fiscal year 2008 have been pro-rated to indicate 8 rather than 12 months of expenses. To implement the expanded provisions of the bill associated with digitizing the floodplain maps to make them accessible to the public, the TWDB anticipates needing 2.7 additional FTEs in fiscal year 2008 for a total of \$237,793 and 4 additional FTEs in each subsequent fiscal year totaling

\$356,690 per fiscal year. The agency also anticipates needing 3.3 FTEs in fiscal year 2008 for a total of \$171,011, and 5 additional FTEs in each subsequent fiscal year, 1 FTE in each TWDB field office, to perform the necessary outreach and public education duties required by the bill for a total of \$256,516 per fiscal year. There would also be additional costs associated with: 1) the purchase, storage, and maintenance of topography, surface water, and ground control data to create the floodplain maps, totaling approximately \$1.5 million each fiscal year; and 2) DIR services for data storage and maintenance (\$106,353 in fiscal year 2008, \$402,688 in fiscal year 2009, \$643,391 in fiscal year 2010, \$816,450 in fiscal year 2011 and \$1,015,364 in fiscal year 2012). Professional fees, totaling \$152,667 in fiscal year 2008 and \$229,000 in each subsequent fiscal year would also be necessary to contract for database development, web development, and development of tools for modeling and analyzing flood plain risk and developing floodplain boundary maps.

It is assumed that all costs incurred under the provisions of the bill would be paid for from the new Floodplain Management Account.

The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

The primary impact to technology would be costs related to the purchase, storage, and maintenance of data.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 580 Water Development Board, 582 Commission on Environmental Quality, 301 Office of the Governor, 454 Department of Insurance

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