

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 2, 2007

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

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

IN RE: HB3839 by Eiland (Relating to premium tax credit for certain investments.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3839, As Introduced: a negative impact of (\$50,000,000) 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	(\$50,000,000)
2010	(\$50,000,000)
2011	(\$50,000,000)
2012	(\$50,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from GENERAL REVENUE FUND 1	Probable Revenue (Loss) from FOUNDATION SCHOOL FUND 193
2008	\$0	\$0
2009	(\$37,500,000)	(\$12,500,000)
2010	(\$37,500,000)	(\$12,500,000)
2011	(\$37,500,000)	(\$12,500,000)
2012	(\$37,500,000)	(\$12,500,000)

Fiscal Analysis

The bill would amend the Insurance Code to create a premium tax credit for certain investments.

The bill would allow for the creation of "certified insurance-capital companies," which would have as their primary business activity the investment of cash in "qualified insurance carriers." A qualified insurance carrier would be a Texas-domiciled, headquartered, property and casualty insurer who is already licensed to conduct business in Texas or an early stage carrier seeking application for licensure. The carrier would have to intend on staying in Texas and maintain the principal operations in the state after receipt of the investment and would have to use its investment primarily to write commercial and personal property insurance in one or more of Tier 1 and 2 Texas Coastal Counties or support the establishment of such a carrier and would be prohibited from selling more than 50 percent of its insurance business in other counties. The carrier would have to employ at least 80 percent of its employees in Texas and pay at least 80 percent of its payroll to employees in the state.

To become a certified insurance capital company an entity would have to meet organizational and capitalization requirements specified by the bill and apply to the Comptroller for certification, as well

as pay a nonrefundable fee of \$7,500 and annual renewal fees of \$5,000. The entity would have to show an equity capitalization of at least \$500,000 in unencumbered cash.

The company would have to undergo an annual review by the Comptroller and pay the cost of this review, according to a schedule adopted by the Comptroller. Decertification by the Comptroller could result in the recapture of all or some of the premium tax credits claimed, and violations of the bill could result in administrative penalties.

The bill would define a "certified investor" as an insurance company or other entity with an insurance premium tax liability that contributed certified capital pursuant to a premium tax allocation under the bill.

A certified insurance-capital company would report to the Comptroller data relating to its certified capital investments and any other information deemed necessary by the Comptroller to complete its biennial report of the program. Before its third anniversary, a certified insurance-capital company would have to have made qualified capital investments cumulatively equal to at least 30 percent of its certified capital, and before its fifth anniversary, qualified investments cumulatively equal to at least 50 percent of its certified capital. A company would have to place 50 percent of its qualified investments in early stage carriers.

In the year of investment, certified investors in certified capital companies would be allowed to earn vested premium tax credits equal to 100 percent of their investment of certified capital. No claims could be filed for investments that had not been funded.

Beginning with the tax report due March 1, 2009, for the 2008 tax year, certified investors could take up to 25 percent of their vested premium tax credit against their premium tax liability each year, but the credit taken could not exceed the premium tax liability for that year. The credit could not trigger any additional retaliatory tax liability. The Comptroller would be given rule-making authority pertaining to the administration of premium tax credits and their transfer.

The total amount of certified capital for which credits would be allowed would be \$200 million. The aggregate credits that could be taken each year would be limited to \$50 million. The new chapter would provide rules for the pro rata allocation of credits in the instance that total claims exceeded the \$200 million limit.

The bill would require the commissioner of insurance to adopt any necessary rules and the Comptroller to submit a detailed biennial report to the Governor, Lieutenant Governor, and the Speaker of the House of Representatives.

The bill would take effect immediately upon a two-thirds vote in each house, otherwise the bill would take effect September 1, 2007.

Methodology

Based on the analysis of the Comptroller, it is assumed that the \$200 million maximum limit on the aggregate amount of capital for which premium tax credits would be met, and that a total of \$50 million in credits would be taken in fiscal years 2009, 2010, 2011, and 2012, at which point the credits would be fully exhausted.

The premium tax on property and casualty insurance is an occupation tax and the Texas Constitution, Article VII, Section 3 dedicated 25 percent of the revenue derived from an occupation tax to the General Revenue Account 0193, Foundation School. It is assumed the premium tax credits provided under the bill would result in losses to General Revenue and General Revenue Account 0193, Foundation School.

This analysis does not include increased revenues from application and renewal fees and administrative penalties because those revenues cannot be estimated.

The bill would provide that investors claiming a tax credit under the bill would not incur any

additional retaliatory tax liability. This could have the effect of allowing credits in the calculation for the home state of a foreign insurer but disallowing them in Texas. This analysis also does not include a reduction in retaliatory tax receipts in Texas because this loss cannot be estimated.

Based on the analysis of the Texas Department of Insurance, any duties and responsibilities associated with implementing the provisions of the bill could be absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JOB, JRO, MW, SK