

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 27, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

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

IN RE: SB1436 by West, Royce (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.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1436, As Introduced: a negative impact of (\$4,371,597) 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	(\$2,085,219)
2009	(\$2,286,378)
2010	(\$2,513,431)
2011	(\$2,686,540)
2012	(\$2,885,404)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2007
2008	(\$2,085,219)	4.0
2009	(\$2,286,378)	4.0
2010	(\$2,513,431)	4.0
2011	(\$2,686,540)	4.0
2012	(\$2,885,404)	4.0

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 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.

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 an allocation of 50 percent of maintenance taxes collected by the Department of Insurance on premiums attributable to loss or damage by floods under Insurance Code Section 251.004; 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, maintenance taxes paid associated with flood insurance cannot be identified because the insurance maintenance tax imposed under Chapter 252 includes damage and loss from fire, flood, hail, windstorm, earthquake, invasion, insurrection, bombardment etc., none of which is reported separately on the Comptroller's tax reports. As such, the Comptroller's Office receives no tax report information that distinguishes the insurance maintenance tax receipts associated solely with floods.

Further, per the Comptroller, most flood insurance is written by private insurers under the Federal Emergency Management Agency (FEMA), and under FEMA rules, FEMA flood policies are preempted from state taxation, with the exception of premium taxes. Given this information, the Comptroller’s Office anticipates that if the revenue generated by the maintenance taxes could be estimated, it would be insignificant.

Administration of the NFIP is currently funded by FEMA at a 75/25 cost share partnership. Per fiscal year, 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.

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 4 additional FTEs in each fiscal year totaling \$356,690 per fiscal year. There would also be additional costs associated with 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. Professional fees, totaling \$229,000 each 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.

This fiscal note assumes that General Revenue funding would be necessary to implement the provisions in the bill because revenue from the maintenance tax receipts would not be adequate.

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: 301 Office of the Governor, 304 Comptroller of Public Accounts, 454 Department of Insurance, 580 Water Development Board, 582 Commission on Environmental Quality
LBB Staff: JOB, DB, ZS, JF, KJG