

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 9, 2009

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

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

IN RE: HB1291 by Eiland (Relating to regulation of certain disaster remediation contractors; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1291, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

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
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>Dept Ins Operating Acct</i> 36	Probable Revenue Gain/ (Loss) from <i>Dept Ins Operating Acct</i> 36	Change in Number of State Employees from FY 2009
2010	(\$397,173)	\$397,173	6.0
2011	(\$369,350)	\$369,350	6.0
2012	(\$369,350)	\$369,350	6.0
2013	(\$369,350)	\$369,350	6.0
2014	(\$369,350)	\$369,350	6.0

Fiscal Analysis

The bill would amend the Insurance Code to create the regulation and enforcement of certain disaster remediation contractors by the Commissioner of Insurance. The Commissioner, in cooperation with the Attorney General, would be required to establish a code of professional responsibility for disaster remediation contractors. The Department of Insurance (TDI) would be required to establish procedures for handling complaints against disaster remediation contractors.

This bill would provide TDI the authority to deny, revoke, suspend or refuse to issue a registration. The bill would provide a disaster remediation contractor with the right to a disciplinary hearing conducted at the State Office of Administrative Hearings (SOAH) and such violations would also be treated as violations of the Deceptive Trade Practices Act (DTPA). TDI would be authorized to

investigate complaints and to forward results to the Attorney General and appropriate law enforcement authorities. Additionally, it would be a Class B misdemeanor to operate as a certified disaster remediation contractor in Texas without a license.

The bill would take effect September 1, 2009, and the requirements for registration and enforcement provisions would take effect on January 1, 2010.

Methodology

Based on the analysis of TDI, the agency would create a new program unit of 5.0 FTEs in the Property and Casualty Program to implement the registration process proposed in the bill. The 5.0 FTEs would be composed of one Program Specialist III, three Insurance Specialist IVs, and one Administrative Assistant I. TDI would also require one Attorney II to provide assistance to the program in regulating the disaster remediation contractors. Costs for implementing this bill would include salaries for an additional 6.0 FTEs, in the amount of \$276,424 each fiscal year with associated benefit costs of \$78,974. One-time equipment costs in 2010 would be \$27,823. Other operating expenses to include telephone and consumable costs would be \$13,952 each fiscal year.

TDI estimates that there are 2,000 contractors or construction companies currently involved in disaster remediation. The revenue calculation assumes a \$100 licensing fee for new applicants and a \$50 licensing fee for renewals. It is assumed the revenue for the licensing fees would be deposited in General Revenue Dedicated Fund 36- Texas Department of Insurance Operating Account.

Since TDI is required to generate revenues equivalent to its costs of operation under current law, this analysis assumes that all costs incurred would be paid from General Revenue Dedicated Fund 36 - Texas Department of Insurance Operating Account from existing fund balances, revenue from the licensing fees, or insurance maintenance tax revenues.

Based on analysis from the Office of the Attorney General (OAG), it is also assumed that any costs realized by OAG from implementing the provisions of the bill could be absorbed within existing resources.

Technology

There would be a one-time technology impact of \$8,664 in fiscal year 2010 for computer hardware and software at TDI.

Local Government Impact

The bill would require a person that holds a certificate of registration as a disaster remediation contractor to also register with the governing body of the council of governments in each region the person proposes to provide disaster remediation services. The bill would require a council of governments to create a registration program, and could charge a registration fee to cover the costs of the registration program. The council of governments would also be required to establish a registry for disaster remediation contractors not later than the 15th day after a declared disaster.

The fiscal impact to local governmental entities would vary depending on several factors, including the number of declared disasters in a region that would require the creation of a disaster remediation registration program, and the establishment of a disaster remediation contractor registry. However, some of the costs associated with implementing the provisions of the bill would be offset depending on the number of disaster remediation contractors that registered with the program in an area, and the fee set and collected by local governments.

Source Agencies: 454 Department of Insurance

LBB Staff: JOB, KJG, MW, CH, TP