

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 24, 2009

TO: Honorable Joe Deshotel, Chair, House Committee on Business & Industry

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

IN RE: HB2295 by McClendon (Relating to the continuation and functions of the Texas Residential Construction Commission; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2295, Committee Report 1st House, Substituted: 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 Savings/(Cost) from General Revenue Fund 1 | Probable Revenue Gain/ (Loss) from General Revenue Fund 1 | Change in Number of State Employees from FY 2009 |
|-------------|--|--|---|
| 2010 | (\$917,129) | \$917,129 | 10.0 |
| 2011 | (\$967,129) | \$967,129 | 10.0 |
| 2012 | (\$1,117,129) | \$1,117,129 | 10.0 |
| 2013 | (\$1,117,129) | \$1,117,129 | 10.0 |
| 2014 | (\$1,117,129) | \$1,117,129 | 10.0 |

Fiscal Analysis

The bill would amend the Property Code by changing the sunset date for the Texas Residential Construction Commission (TRCC) from September 1, 2009, to September 1, 2015. The bill would increase the number of commissioners from 9 to 11. The bill would require TRCC to produce a homeowner information pamphlet that provides basic information about TRCC and make the pamphlet available in a hard-copy format and on the commission's Internet website. TRCC would be required to provide the pamphlet to a homeowner after the registration of a home under an applicable remodeling contract.

The bill would amend the Property Code to require a person to hold a license rather than a certificate

of registration with the Texas Residential Construction Commission (TRCC) in order to engage in business as a builder or act as a builder in Texas. The bill would require an individual builder license applicant to take an examination prescribed by TRCC, effective on September 1, 2011. The bill would require the examination to be prepared by TRCC or by a multistate contractor licensing association approved by TRCC. The bill would require TRCC to ensure that the examination is administered in various locations throughout the state. The bill would authorize TRCC to grant a provisional license to an applicant who meets certain criteria specified by the bill.

The bill would establish the homeowner recovery fund account with the Texas Treasury Safekeeping Trust Company to reimburse parties suffering actual damages as a result of a builder’s violation under the Texas Residential Construction Commission Act. The bill would require the comptroller to transfer annually to the account 10 percent of each administrative penalty collected under Chapter 419, Property Code, and any money collected by TRCC during state fiscal year 2010 that exceeds the commission’s direct and indirect operating costs. If the balance of the account on December 31 of a year exceeds \$5 million, the bill would require TRCC to transfer the excess amount to the comptroller for deposit to the General Revenue Fund. The bill would require TRCC, after receiving a request for payment from the homeowner recovery fund, to hold a hearing to determine whether the person making the request is entitled to payment and, if so, the amount of the payment to which the person is entitled.

The bill would require TRCC to adopt rules for processing and prioritizing inspection requests. The bill would require TRCC to appoint a third-party inspector on or before the 10th day after the date TRCC receives a request rather than the 30th day after receiving a request and would require an inspector to issue a recommendation within 45 days rather than 60 days after receiving an assignment involving a structural matter. If the executive director of TRCC determines the circumstances involved in a request constitute an emergency, the bill would allow the executive director to assign a TRCC employee that is qualified to conduct the inspection and issue a recommendation.

The bill would establish in statute the office of ombudsman within TRCC to assist the commission, builders, and homeowners in the state inspection process.

The bill would repeal statute establishing the Star Builder Program.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis of TRCC, it is assumed the agency would incur a cost of \$50,000 in fiscal year 2011 to contract with a multistate contractor licensing association to prepare the new builder examination. It is also assumed TRCC would incur costs of \$200,000 each year for administering the exam at multiple locations around the state. It is assumed TRCC would assess and collect fees sufficient to offset the additional costs associated with implementing and administering the examination.

Based on the analysis of TRCC, it is assumed the agency would require one additional full-time-equivalent (FTE) position to manage the new homeowner recovery fund account at a cost of \$52,418 each year for salary and \$8,386 each year for rent and other operating expenses. Based on the information and analysis provided by the Comptroller’s office, it is assumed the deposit of 10 percent of administrative penalties each year to the recovery fund instead of the General Revenue Fund under current law would not result in a significant fiscal impact to the state. Additionally, based on TRCC’s current budget for fiscal year 2009 and the estimated fee revenue collections from the Comptroller’s Biennial Revenue Estimate for the 2010-11 biennium, it is assumed any deposit of fee revenue in excess of the agency’s direct and indirect operating costs would not result in a significant fiscal impact. Therefore, no estimates for deposits to the fund from administrative penalties in each fiscal year or from excess fee revenue in fiscal year 2010 are reflected in the table above.

Based on the information provided by TRCC, it is assumed the agency would require additional inspection personnel to accommodate provisions of the bill that decrease the amount of time to assign an inspector and to issue a recommendation on alleged defects. Based on the analysis of TRCC, it is

assumed the agency would require 6 inspectors and 2 additional support personnel (8 FTEs) at an annual cost of \$481,939 for salaries; \$121,250 for inspector travel; and \$75,470 for rent and other operating expenses.

Based on the analysis of TRCC, it is assumed the agency would incur costs of \$25,000 for database programming and maintenance associated with implementing the provisions of the bill. Employee benefits costs associated with the 10 FTEs identified above are estimated to be \$152,666 per year (28.57% of salaries).

Based on the information provided by Sunset Advisory Commission staff, the repeal of the Star Builder program would result in a slight decrease in registration revenue. Due to the small number of registered Star Builders, the resulting revenue loss would not be significant relative to the total amount of builder registration fee revenue (less than 0.1 percent of agency fee revenue).

It is assumed the agency would assess and collect fees sufficient to offset the costs associated with implementing the provisions of the bill.

Technology

Technology costs are estimated to be \$25,000 each year for database programming and maintenance.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 370 Residential Construction Commission

LBB Staff: JOB, JRO, MW, TG