LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

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

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

IN RE: **HB2487** by Eiland (Relating to the establishment, funding, and operation of the Texas natural disaster catastrophe fund and the disaster preparedness and mitigation grant council.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code to establish the Texas Natural Disaster Catastrophe Fund (Fund) to provide for the payment of losses from natural disasters and the Disaster Preparedness and Mitigation Grant Council. The bill would establish the fund outside of the treasury to pay for catastrophic losses to reimburse residential property insurers a percentage of their losses from a covered event in excess of the amount of loss retained by the insurer, defined as 'retention', which includes any company authorized to write residential property insurance in Texas, the Texas Windstorm Insurance Association, and the FAIR Plan. The bill would require the Texas Department of Insurance (TDI) to determine a retention multiple annually and sets the multiple for a contract year beginning in 2009.

The bill would require each insurer, as a condition of writing insurance in Texas, to enter into a reimbursement contract with TDI, in exchange for the reimbursement premiums the insurer has to pay. The bill would establish funding for the Fund through reimbursement premiums which would consist of an advance of $1,000, for initial administration of the Fund, and an annual premium based on an actuarial formula to be established by an outside consultant, or either 2 percent of gross direct written premiums for the preceding year, or 4 percent of gross direct written premiums if the Governor had declared an emergency. The bill would require the annual reimbursement premium to be paid by July 1, of each year. The bill would require TDI to annually notify insurers of the borrowing capacity of the Fund, the balance in the Fund, and the insurer's estimated reimbursable amount to be paid by the Fund.

The bill would authorize the Texas Public Finance Authority to issue securities, at the request of TDI, if a covered event occurs and the Comptroller determines that the Fund is insufficient to pay reimbursements as required by the reimbursement contracts. The securities may be issued in an amount needed to fund the total required reimbursement amounts. The bill states that the securities could be sold by competitive or negotiated sale, and would have to have a maximum maturity of 15 years, and be issued in the name of TDI. The bill would require that only the reimbursement premiums, or other revenue TDI may legally charge and collect for the Fund, can be pledged to repay the debt.

The bill would take effect immediately if it receives a vote of two-thirds by all members elected to each house. If the bill does not receive that vote, then the bill would take effect on September 1, 2009.

Based on analysis provided by TDI, it is anticipated that 3 FTEs in fiscal years 2010 and 2011 are required to develop and administer the program, at a cost of $245,899 in fiscal year 2010 and $231,725 in fiscal year 2011. In fiscal years 2012-2014, 2 FTEs will be required to administer the Fund and the program at an annual cost of $132,796. The costs of these FTEs and administration of the Fund will be paid by the Fund, as is stated in the bill.

Based on analysis provided by the Bond Review Board, the public securities are obligations solely of TDI and do not create a pledge, gift, or loan of the faith, credit, or taxing authority of this state. Since the issuance of the TDI's debt is not and may not constitute a legal or moral obligation of the state, any debt issuance by TDI under the provisions of the bill should have no direct impact on the state's fiscal health.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993, and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 347 Public Finance Authority, 352 Bond Review Board, 454 Department of Insurance

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