LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB2752** by Eiland (Relating to independent audits of insurer financial statements and insurer internal controls.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2752, As Passed 2nd House: a negative impact of ($154,948) through the biennium ending August 31, 2011.

Depending on the number of insurer insolvencies and subsequent premium tax credits, there would be an indeterminate negative fiscal impact to General Revenue.

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	($78,724)
2011	($76,224)
2012	($76,224)
2013	($76,224)
2014	($76,224)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1	Probable Revenue Gain from *Insurance Maint Tax Fees* 8042	Probable (Cost) from *Insurance Maint Tax Fees* 8042	Change in Number of State Employees from FY 2009
2010	($78,724)	$251,170	($251,170)	2.5
2011	($76,224)	$241,779	($241,779)	2.5
2012	($76,224)	$241,779	($241,779)	2.5
2013	($76,224)	$241,779	($241,779)	2.5
2014	($76,224)	$241,779	($241,779)	2.5

Fiscal Analysis

The bill would amend the Insurance Code to revise the audit requirements for audited financial reports from insurers and to change the professional requirements of the auditor preparing the report. The bill would not require health maintenance organizations to submit an audited financial report to the Texas Department of Insurance (TDI). The bill would require TDI to revise the exemption process for receiving audited financial reports from insurers.

The bill would require the Office of the Attorney General (OAG) to conduct enforcement activities regarding complaints for health care sharing organizations and adopt rules regarding the implementation of the bill.

The bill would amend the Insurance Code to expand the regulation of certain market conduct activities of certain life, accident, and health insurers and health benefit plan issuers. The bill would change the requirements for the sale of certain annuities and requires TDI adopt rules to implement this section.

The bill would create an independent review process for certain rescission decisions. The bill would require TDI to adopt standards for the independent review organizations and to adopt rules to implement these provisions.

The bill would require preferred provider benefit plan companies to file annually or more often as required by the commissioner, their loss ratio data to TDI and publish the information on TDI's website. The bill would require TDI to adopt rules to implement these provisions.

The bill would create a complaint process for premium rate increases for small employer health benefit plans. The bill would require the Office of Public Insurance Counsel (OPIC) to accept complaints against small employer health benefit plans from small employers, eligible employees or their dependents concerning significant rate increases. The bill would authorize OPIC to determine which complaints are appropriate to refer to TDI and authorize TDI to issue an order assessing penalties if the rate is determined to be excessive. The bill would allow OPIC to request reimbursement from TDI for costs and fees associated with the investigation and resolution of complaint of a rate increase. The bill would not require, but would allow, TDI to reimburse OPIC for these expenses.

The bill would create the Honesty-In-Premium Account as a fund in the General Revenue Fund. The bill would allow TDI to make an assessment against each small employer health benefit plan issuer to cover the costs of investigating and resolving a complaint. The bill would allow the fund to receive revenue from any assessments TDI makes as specified in the bill and from interest earned on the fund.

The bill would increase the number of contractual obligations that the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association would pay in certain cases of insurer insolvency. TDI would need to update certain publications to reflect the changes made by the bill.

The bill would take effect on September 1, 2009.

Methodology

The additional obligations to the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association would result in indeterminate negative fiscal implications to General Revenue. Members of this association are assessed for the insolvency claim payouts and certain amounts of these assessments result in the members receiving a premium tax credit against General Revenue. The bill may result in a decrease in premium taxes due to increased claim payments. Since the number of insolvencies and number of additional contractual obligations per insurer insolvency is undetermined, the fiscal implication of this section of the bill cannot be estimated.

Based on the analysis by the OAG, the cost to conduct enforcement activities regarding complaints for health care sharing organizations could be absorbed within existing agency resources.

Based on the analysis by TDI, it is anticipated that the loss ratio collection and review process and the complaint process will require an additional 3.5 FTEs in fiscal year 2010 and 2.5 FTEs in fiscal year 2011 and each subsequent fiscal year. The additional FTEs in 2010 are necessary for the development of a new computer application for the annual collection of loss ratio data.

In fiscal year 2010, the 3.5 FTEs would cost $230,700 for salaries and wages with associated benefit costs of $65,911, travel costs of $1,250, and telephone and other operating expenses of $6,690. Additionally, one-time equipment expenditures are anticipated to be $13,999 in fiscal year 2010. In fiscal year 2011, the 2.5 FTEs would cost $164,998 for salaries and wages with associated benefit costs of $47,140, travel costs of $1,250, and telephone and other operating expenses of $6,690. Additionally, expert witnesses will be required in contested rate cases at a cost of $100,000 each year of 2010-2014. Since insurance maintenance tax is self-leveling, this analysis assumes that the costs to implement this bill would come from fund balances or the maintenance tax would be set to recover a higher level of revenue.

Since reimbursements to OPIC for the small employer health benefit plan complaint process for premium rate increases are at the discretion of TDI, this analysis assumes that TDI would not make assessments on the small employer health benefit plan issuer and therefore would not reimburse OPIC for costs related to the complaint process.

Based on analysis provided by OPIC, it is anticipated that the complaint process will require an additional 1 FTE to analyze complaints to determine if the rate change is sufficient to warrant OPIC's participation. The 1 FTE would have a salary cost of $59,286 with associated benefits of $16,938 each fiscal year. Additionally, a one-time equipment cost of $2,500 is anticipated in fiscal year 2010. These costs would be funded through General Revenue.

Based on analysis provided by the Employee Retirement System (ERS) regarding the loss ratio collection and review, this bill would have no significant fiscal impact on the agency.

Based on analysis provided by the Teacher Retirement System (TRS) regarding the loss ratio collection and review, this bill would have no fiscal impact on the agency.

Based on analysis provided by TDI, the cost to collect medical loss ratios of preferred provider benefit plan issues and to revise the requirements of audited financial reports can be absorbed within existing resources.

Implementation of the new requirements for the sale of certain annuities will result in a small one-time revenue gain in General Revenue Dedicated Account Fund 36 in fiscal year 2010 from additional form filings. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes this revenue would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year.

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.

Technology

The bill is anticipated to have a technology impact of $5,388 in fiscal year 2010.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 359 Office of Public Insurance Counsel, 454 Department of Insurance

LBB Staff: JOB, JRO, MW, CH