

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 22, 2009**

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

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

**IN RE: HB4102** by Eiland (Relating to the disaster contingency fund.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4102, As Passed 2nd House: a negative impact of (\$103,795,510) through the biennium ending August 31, 2011.

**Additionally, due to the unknown nature of any future disaster, the section of the bill that would amend the Government Code could have an indeterminate fiscal impact to the state.**

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	(\$97,519,330)
2011	(\$6,276,180)
2012	\$0
2013	\$0
2014	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2010	(\$97,469,330)	(\$50,000)
2011	(\$6,276,180)	\$0
2012	\$0	\$0
2013	\$0	\$0
2014	\$0	\$0

**Fiscal Analysis**

The bill would require the commissioner to adjust the average daily attendance (ADA) of a school district located within a declared disaster area, if the district experienced a decline in ADA that was reasonably attributable to the disaster. The adjustment would have to be sufficient to provide funding comparable to that the district would have received if the decline in ADA attributable to the disaster had not occurred. This adjustment would have to be made for the two-year period following the date of the initial declaration of a state of disaster.

The bill would require the commissioner to adjust the taxable value of property of a school district located within a declared disaster area as was necessary to ensure that the district received funding

based as soon as possible on property values as affected by the disaster. The bill also would provide a reimbursement of disaster remediation costs for a school district located within a declared disaster area for which the district does not anticipate reimbursement through insurance proceeds, federal disaster relief, or other sources. During the two-year period following the date of the initial declaration of a state of disaster, a district could apply to the commissioner for reimbursement of disaster remediation costs paid during that period for which the district does not anticipate reimbursement through insurance proceeds, federal disaster relief, or other sources. A district could also seek reimbursement of disaster remediation costs paid on or after September 1, 2008. The commissioner could provide reimbursement only if funds were specifically appropriated for that purpose or the commissioner determined that there were surplus appropriations for the Foundation School Program (FSP).

The bill would authorize a local board of trustees to delegate the authority to contract for replacement, construction, or repair of school equipment or facilities, if emergency replacement, construction, or repair were necessary for the health and safety of district students and staff.

The bill would allow a state or local government entity that participates in disaster preparation or disaster recovery to request and receive funding from the disaster contingency fund to pay for costs incurred by the state or local government entity in preparing for or recovering from a disaster. If state or local government entities receive reimbursement from the federal government, then the entities would be required to reimburse the disaster contingency fund by the amount received from the federal government. The bill would also require the Governor's Division of Emergency Management (GDEM) to prescribe accounting and other procedures necessary to implement the provisions of the bill. Money in the disaster contingency fund may be used to pay for a disaster risk financing instrument to leverage available funds and receive proceeds greater than appropriated amounts to pay for extraordinary expenses. Money in the fund also may be used to provide local matching funds for Federal Emergency Management Agency projects or for preventing default on outstanding bonds or meeting other financial requirements.

The bill would take effect only if a specific appropriation for the implementation of the bill were provided in the general appropriations act of the 81st Texas Legislature. If the appropriation is made, the bill would take effect immediately upon receiving a two-thirds majority vote in each house; otherwise, the bill would take effect September 1, 2009.

## **Methodology**

According to the Texas Education Agency (TEA), current estimates indicate that school districts affected by Hurricane Ike incurred approximately \$350 million in damages. TEA further assumes that, based on experiences with Hurricane Rita, approximately 20 percent, or \$70 million, of those costs would not be covered by insurance or other disaster relief assistance.

Based on the provisions of the bill, districts would qualify for property value adjustments and adjustments to average daily attendance and would also be eligible to apply for disaster remediation funds to the extent that a specific appropriation for this purpose was made or surplus funds were available in the Foundation School Program (FSP). For the purposes of this fiscal note, it is assumed that appropriations or surplus FSP funds would be available.

In estimating how much of state remediation costs would flow through the various provisions of the bill, it is assumed that the four coastal districts that TEA has identified as hardest hit by Hurricane Ike in 2008, Galveston, High Island, Bridge City, and Sabine Pass ISDs, would lose 20 percent of their pre-hurricane attendance in fiscal year 2010 and 30 percent of their tax year 2009 property values. Under the current law school finance system, the attendance decline would cause a district's wealth per weighted student (WADA), the basis for wealth equalization obligations under Chapter 41 Education Code, to increase in the same year. However, due to the use of lagged property values in the state funding system, the tax year 2009 property value decline would not lower wealth per WADA until fiscal year 2011. The cost for the property value adjustment under Section 2 of the bill for fiscal year 2010 is estimated to be \$14,916,971. In addition to these costs, the bill would provide relief to disaster-affected districts through adjustments to counts of students in average daily attendance (ADA). TEA estimates the cost for adjustments to ADA for the coastal districts identified above at \$12,552,359 for fiscal year 2010. Assuming that average daily attendance in the identified districts

would recover somewhat in fiscal year 2011, costs for the second year of the ADA adjustment provided under the bill are estimated to be approximately \$6,276,180. In addition to these costs, an estimated \$70 million in potentially eligible remediation costs would then flow through the reimbursement mechanism of the bill in fiscal year 2010.

For the purpose of this estimate, identified state costs are assumed to be limited to costs resulting from application of the bill's provisions to Galveston, High Island, Bridge City and Sabine Pass ISDs. However, the bill would render eligible for relief any school district in a designated disaster area and that incurs qualifying disaster remediation costs. In the current fiscal year, more than 570 school districts are located in a county designated by the Governor as a disaster area. Should more districts than the four assumed by the agency have incurred qualifying disaster remediation costs, experienced declining attendance or experienced property value decline, state costs due to the provisions of the bill could increase significantly.

TEA estimates that accounting for the provisions of the bill in the current Foundation School Program management and payment system would require approximately \$50,000 in software modification costs in fiscal year 2010.

Implementing the provisions of the bill that affect the Government Code would result in an indeterminate fiscal impact to the state due to the unknown nature of any future disaster.

### **Local Government Impact**

Districts might incur some administrative costs to prepare applications for funds, but the TEA does not expect these costs to be significant. School districts would receive additional revenue through adjustments and additional funding under the Foundation School Program to offset costs associated with disaster remediation for which the district does not anticipate reimbursement through insurance proceeds, federal disaster relief, or other sources. If authorized by the commissioner of education, a school district would be permitted to use the funding provided under this bill to pay the costs of replacing a facility instead of repairing a facility. In such circumstances, funding would be limited to the lesser of the amount the would be available to the district if the facility were repaired or the amount necessary to replace the facility.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, SD, KJG, JSp, JGM