

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

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

**May 30, 2009**

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
 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 and relief for school districts located in a disaster area.), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4102, Conference Committee Report: a negative impact of (\$88,878,539) 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	(\$82,602,359)
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	(\$82,552,359)	(\$50,000)
2011	(\$6,276,180)	\$0
2012	\$0	\$0
2013	\$0	\$0
2014	\$0	\$0

**Fiscal Analysis**

The bill would make special provisions for school districts located in a declared disaster area that have incurred disaster remediation costs. For the two-year period following the date of the governor's initial declaration, the amount of attendance credits that must be purchased under Section 41.093, Education Code would be reduced by the amount of any disaster remediation costs paid by the district during that period for which the district does not anticipate reimbursement through insurance proceeds, federal disaster relief, or other sources. For the purposes of reducing recapture costs in 2009–2010, disaster remediation costs paid by the district after September 1, 2008, would be included.

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 also 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 would further provide a reimbursement of disaster remediation costs for a school district located within a declared disaster area for which the district does not anticipate other reimbursement. 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 other sources. A district could also seek reimbursement of disaster remediation costs paid on or after September 1, 2008. The commissioner could provide reimbursement from amounts appropriated for that purpose or from the Foundation School Program (FSP) if the commissioner determined that there were surplus appropriations for the 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.

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 be eligible to apply for disaster remediation funds in one of two ways: (1) for districts subject to wealth equalization, remediation compensation may come in the form of reduced recapture payments, and (2) districts not receiving reimbursement through reduced recapture payments may receive state aid to the extent that appropriations were provided or surplus funds were available in the Foundation School Program (FSP). For the purposes of this fiscal note, it is assumed that surplus FSP funds would be available, and therefore would be used as disaster remediation payments instead of offsetting other state costs or lapsing to the Treasury.

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 recapture adjustment under Section 1 of the bill is estimated to be \$14,916,971. The remaining amount of the estimated \$70 million in potentially eligible remediation costs would then flow through the reimbursement mechanism in Section 3 of the bill.

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) and property values. TEA estimates the cost for adjustments to ADA or property values 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.

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. Currently, there are 570 school districts 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 that 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