

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

**FISCAL NOTE, 82nd LEGISLATURE 1st CALLED SESSION - 2011**

**June 20, 2011**

**TO:** Honorable John Carona, Chair, Senate Committee on Business & Commerce

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

**IN RE: HB3** by Smithee (Relating to the operation and name of the Texas Windstorm Insurance Association, to the resolution of certain disputes concerning claims made to that association, and to the issuance of windstorm and hail insurance policies in the private insurance market by certain insurers; providing penalties.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3, As Engrossed: an impact of \$0 through the biennium ending August 31, 2013.

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
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

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

Fiscal Year	Probable Revenue Gain from <i>Appropriated Receipts</i> 666	Probable (Cost) from <i>Appropriated Receipts</i> 666
2012	\$500,000	(\$500,000)
2013	\$0	\$0
2014	\$0	\$0
2015	\$0	\$0
2016	\$0	\$0

## **Fiscal Analysis**

The bill would amend the Insurance Code relating to the operation of the Texas Windstorm Insurance Association (TWIA) and to the resolution of certain disputes concerning claims made to that association, and to the issuance of windstorm and hail insurance policies in the private insurance market by certain insurers; providing penalties.

This bill would amend Chapter 2210 of the Insurance Code, regarding the continuation of TWIA and the changing of TWIA's name to the Texas Coastal Insurance Plan Association (TCIPA). The bill would add requirements for open meetings and open records, and amend policy coverage, policy cancellation, and required policy provisions.

The bill would provide that if the Commissioner of Insurance at the Texas Department of Insurance (TDI) takes an action against TCIPA under Chapter 441, TCIPA's inability to satisfy obligations issued under Subchapter M constitutes a hazard to the public for purposes of section 441.052 of the Ins. Code. The new section 2210.010 would not allow a person to bring a private action against TCIPA under chapter 541 or chapter 542, chapter 542 would not apply to the processing and settlement of claims by TCIPA, and a class action could only be brought by the Texas Attorney General. The bill would state that TCIPA is not considered a debtor authorized to file bankruptcy under Title 11, U.S. Code.

The bill would require TDI to conduct a random audit of claims filed with TCIPA and amends the definition of catastrophe year.

The bill would allow the issuance of Class 1 public securities pre-event, and would increase the possible maturity to 14 years. The bill would provide that Class 1 public securities may be issued before a catastrophe on the request of the board with the approval of the commission, and may not exceed \$1 billion in the aggregate at any one time, regardless of the calendar year or years in which the outstanding securities were issued. Additionally, the bill would provide that the Class 1 public securities shall be issued as necessary but not to exceed \$1 billion in principal amount in a catastrophe year, in the aggregate, if issued before the catastrophe, or on or after the catastrophe, and may be issued in multiple tranches during the calendar year of the event or in the following year. The bill would state that if public securities are issued as described by sec. 2210.072, then they shall be repaid from TCIPA premium revenue. The bill would provide that if Class 1 debt is issued pre-event, TCIPA will have to use those funds to pay claims before the proceeds of any Class 1 debt issued after the occurrence; however, Class 1 securities may be issued after an event, but before pre-event proceeds have been exhausted. If proceeds issued under subsection (e) must be depleted, those proceeds will count against the \$1 billion cap.

The bill would clarify that \$1 billion in the aggregate is the principal amount of Class 2 public securities that can be issued in a catastrophe year, whether for losses from a single event or series of events and that the debt can be issued in one of more tranches during the calendar year of the event or events, but also in the following calendar year, if debt cannot reasonably be issued in the year of the events. Additionally, the bill would clarify that \$500 million in the aggregate is the principal amount of Class 3 public securities that can be issued in a catastrophe year, whether for losses from a single event or series of events and that the debt can be issued in one of more tranches during the calendar year of the event or events, but also in the following calendar year, if debt cannot reasonably be issued in the year of the events.

The bill would require the Texas Board of Professional Engineers to adopt rules to implement changes in the Occupations Code relating to windstorm-related design services and windstorm certification standards.

Additionally, the bill would require that TCIPA submit a catastrophe plan describing how TCIPA would evaluate losses and process claims following certain categories of windstorms.

The bill would take effect immediately upon receiving a two-thirds majority vote in each house. If the

bill does not receive a two-thirds vote in each house, the bill would take effect on the 91st day after the last day of the legislative session.

## **Methodology**

Based on the analysis provided by TDI, it is assumed that all duties and responsibilities associated with the agency implementing the provisions of the bill could be accomplished by utilizing existing agency resources.

The changes to the Insurance Code regarding the issuance of public securities will require the Texas Public Finance Authority (TPFA) to revise the commercial paper program documents prepared for the sale of Class 1 public securities and seek a private liquidity agreement to support the commercial paper program that have been prepared for the sale of Class 1 public securities. Based on the analysis provided by TPFA, implementation of the bill will cost \$500,000 in fiscal year 2012 for professional services to revise the commercial paper program documents and to obtain a new opinion on Class 2 and 3 of public securities from bond counsel on whether debt can be issued as taxable or tax exempt. If debt is issued, the cost would be reimbursed by proceeds for costs of the issuance. Since the timing of a natural disaster that would require the issuance cannot be predicted, it is assumed that TCIPA will fund this cost in fiscal year 2012 and recoup the expense from a future debt issuance.

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

The fiscal impact of costs that may be incurred in association with implementing the provisions of the bill for the Texas Board of Professional Engineers are not considered in this analysis because fiscal impact for this agency would be realized outside of the Treasury due to these agencies being Self-Directed and Semi-Independent.

## **Technology**

No technology impact is anticipated.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 347 Public Finance Authority, 352 Bond Review Board, 454 Department of Insurance, 460 Board of Professional Engineers

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