LEGISLATIVE BUDGET BOARD
Austin, Texas

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

June 14, 2011

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

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

IN RE: **SB3** by Carona (Relating to the operation and name of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, As Introduced: 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 *Appropriated Receipts* 666	Probable (Cost) from *Appropriated Receipts* 666
2012	$750,000	($750,000)
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 and name of the Texas Windstorm Insurance Association (TWIA) and to the resolution of certain disputes concerning claims made to that association; providing penalties.

This bill would amend Chapter 2210 of the Insurance Code changing of TWIA's name to the Texas Coastal Insurance Plan Association (TCIPA).

The bill would make TCIPA subject to Chapters 551 and 552 of the Government Code, regarding open meetings and public information, respectively; make settlement agreements to which TCIPA is party public information; mandate that TCIPA broadcast live, and maintain an archive of, meetings of the board of directors, other than closed meetings; and allow the Commissioner of Insurance to attend closed meetings of the TCIPA board of directors.

The bill would authorize TCIPA to offer premium discounts on a policy issued by TCIPA if the person elects to purchase a binding arbitration endorsement.

The bill would allow the issuance of Class 1 public securities pre-event, and would increase the possible maturity to 14 years; provide that Class 1 public securities may be issued before a catastrophe if the board determines that there are insufficient resources from revenues and reserves to pay insured losses; and state that the securities 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. 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 a calendar year of the event or in the following year.

The bill states that if public securities are issued as described by sec. 2210.072, then they shall be repaid from TCIPA premium revenue. The bill provides 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. Additionally, the bill would provide that to the extent that pre-event Class 1 proceeds are used to pay losses resulting from a catastrophe, then the Class 1 proceeds issued pre-event are to be considered as having been issued post-event and in the same catastrophe year as the event.

The bill would amend Section 2210.073 by amending subsection (b) allowing public securities to be issued in a principal amount not to exceed $1 billion per catastrophe year and stating that public securities may be issued in one or more issuances or tranches during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in the calendar year in which the occurrence or series of occurrences takes place, during the following calendar year.

The bill would amend Section 2210.074 by stating that public securities described by Subsection (a)(1) may be issued as necessary in a principal amount not to exceed $500 million per catastrophe year and (2) may be issued in one or more issuances or tranches during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in the calendar year in which the occurrence or series of occurrences takes place, during the following calendar year.

The bill would make the inability of TCIPA to meet obligations related to the issuance of certain securities a condition that constitutes a hazard to the public for the purposes of Section 441.052 of this code; provide for alternative eligibility for coverage for structures; allow the Commissioner to establish an annual renewal period for qualified inspectors; grant the Texas Department of Insurance (TDI) exclusive authority over the appointment and oversight of qualified inspectors; and amend Chapter 83 of this code to allow TDI to issue emergency cease and desist orders to inspectors and persons acting as inspectors.

The bill would require the Commissioner to appoint an expert panel to advise the Commissioner on and recommend methods of determining the extent to which insured storm damage was incurred as a result of wind, waves, tidal surges, rising waters, and wind-driven rain; and, after considering the recommendations of the panel, to publish guidelines that TCIPA would use to settle claims.

Additionally, the bill would require, if TCIPA does not purchase reinsurance, that TCIPA, not later than June 1 of each year, submit an actuarial plan for paying losses in the event of a catastrophe with estimated damage of $2.5 billion or more; and require that TCIPA, not later than June 1 of each year, submit a catastrophe plan describing how TCIPA would evaluate losses and process claims following certain categories of windstorms.

The bill would repeal Section 2210.551(e), and make conforming changes to Sections 83.002 and 541.152, of the Insurance Code. The bill would create a legislative interim study committee to study alternative ways to provide insurance to seacoast territory through a quasi-governmental entity. The bill would only apply to claims or policies issued 30 days after the effective date and TCIPA would be required to amend its plan of operation due to the changes in the bill by January 1, 2012.

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

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. Additionally, revisions to the source of revenue for repayments of all classes of public securities will require TPFA to obtain a new opinion from bond counsel on whether debt can be issued as taxable or tax exempt. Based on the analysis provided by TPFA, implementation of the bill will cost $750,000 in fiscal year 2012 for professional services to revise the commercial paper program documents and to obtain a new opinion from bond counsel on all classes of public securities. 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 provided by the Comptroller of Public Accounts, discounts for those premiums stemming from policies written by TCIPA could result in a reduction in premium tax revenue, but that amount cannot be determined as it is unknown how many policyholders would opt for binding arbitration which is required to receive the discount. Currently, premium tax revenue from TWIA policies is approximately $6 million annually.

Based on the analysis provided by the Texas Department of Insurance, the expert panel members would be compensated for the initial work performed in fiscal year 2012 and for work performed following a storm. Since the timing, magnitude, location, and number of storms that might occur cannot be estimated, this analysis assumes one storm during the next five years, occurring in fiscal year 2013. Based on the assumption of one storm during the next five years, it is assumed that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing agency resources.

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.

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

LBB Staff: JOB, AG, MW, CH, KJG