

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 28, 2011

TO: Honorable Rick Hardcastle, Chair, House Committee on Agriculture & Livestock

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

IN RE: HB1840 by Phillips (Relating to the creation of the grain producer indemnity fund.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1840, 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/ (Loss) from <i>New Other</i>	Probable Savings/(Cost) from <i>New Other</i>	Change in Number of State Employees from FY 2011
2012	\$4,500,000	(\$203,013)	2.1
2013	\$4,500,000	(\$172,213)	2.1
2014	\$4,500,000	(\$334,978)	3.9
2015	\$4,500,000	(\$309,978)	3.9
2016	\$4,500,000	(\$309,978)	3.9

Fiscal Analysis

The bill would amend the Agriculture Code to create the Grain Producer Indemnity Fund as a special trust fund with the Comptroller, administered by the Department of Agriculture (TDA), without appropriation, for the payment of claims against a grain buyer who has experienced a financial failure. The bill would create the Grain Producer Indemnity Fund Board and would require the board, in conjunction with TDA, to set an annual fee to be paid to TDA out of the fund to compensate the department for the cost of administering the fund.

The bill would require grain buyers, at the first point of sale, to collect an assessment based on the purchase price of the grain and, on a quarterly basis, remit the amount collected to TDA for deposit into the fund.

The bill establishes the circumstances under which a claim against the fund could be initiated. After a

claim would be initiated, TDA would need to investigate the grain producer's claim and determine the amount due to the grain producer. Within 30 days of TDA making a determination on the claim, the agency would have to pay the grain producer from the fund or notify the grain producer that the claim is denied. The bill would require grain buyers to reimburse the fund if TDA pays a claim against a grain buyer.

The bill would allow TDA, the Attorney General, or county or district attorneys to pursue civil penalties for certain violations.

The bill would require TDA to conduct a referendum of grain producers.

The bill would take effect September 1, 2011.

Methodology

Based on information provided by TDA, the Grain Producer Indemnity Fund, which would be held outside the appropriations process, would have annual revenue of \$4,500,000 based on an assessment set at 0.2 percent of the purchase price of grain. The bill would require a predetermined amount to be transferred from the fund to TDA for the administration of the fund. Based on information provided by TDA, it is estimated that the agency would have a cost associated with implementing the provisions of the bill of \$375,226 in the 2012-13 biennium.

The bill would require the board to set a minimum balance for the fund to be held in reserve, and TDA anticipates it would take two years to reach such a balance; therefore it is assumed that no claims would be paid out of the fund in fiscal years 2012 and 2013. It is assumed that 100 claims would be paid annually beginning in fiscal year 2014. All responsibilities required by the bill, with the exception of the payment of claims would begin in fiscal years 2012 and 2013. Therefore, in fiscal years 2012 and 2013, it is anticipated that TDA would need an additional 2.1 FTEs with annual salary costs of \$131,670, and 3.9 FTEs in fiscal year 2014 and beyond with annual salary costs of \$229,622. Other operating expenses and travel are estimated at \$34,660 in fiscal year 2012, \$3,860 in fiscal year 2013, \$41,383 in fiscal year 2014, and \$66,596 in fiscal year 2015 and beyond. Estimated costs also include \$36,683 in fiscal years 2012 and 2013 and \$63,973 in fiscal years 2014 and beyond for associated benefits.

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. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

There would be a technology cost to the TDA of \$6,110 in fiscal year 2012, \$1,560 in fiscal year 2013, \$6,510 in fiscal year 2014, and \$2,760 in fiscal year 2015 and beyond.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 551 Department of Agriculture

LBB Staff: JOB, SZ, ZS, AH