

SENATE AMENDMENTS

2nd Printing

By: Phillips, Hunter, Aliseda, Pitts,
Laubenberg

H.B. No. 1840

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation and functions of the Texas Grain Producer
3 Indemnity Board.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 41.001, Agriculture Code, is amended to
6 read as follows:

7 Sec. 41.001. POLICY. It is in the interest of the public
8 welfare of the State of Texas that the producers of any agricultural
9 commodity be permitted and encouraged to develop, carry out, and
10 participate in programs of research, disease and insect control,
11 predator control, education, indemnification, and promotion
12 designed to encourage the production, marketing, and use of the
13 agricultural commodity. The purpose of this chapter is to
14 authorize and prescribe the necessary procedures by which the
15 producers of an agricultural commodity grown in this state may
16 finance those programs. The programs may be devised to alleviate
17 any circumstance or condition that serves to impede the production,
18 marketing, or use of any agricultural commodity.

19 SECTION 2. Section 41.058(e), Agriculture Code, is amended
20 to read as follows:

21 (e) The board may act separately or in cooperation with any
22 person in developing, carrying out, and participating in programs
23 of research, disease and insect control, predator control,
24 education, indemnification, and promotion designed to encourage

1 the production, marketing, and use of the commodity on which the
2 assessment is levied.

3 SECTION 3. Chapter 41, Agriculture Code, is amended by
4 adding Subchapter I to read as follows:

5 SUBCHAPTER I. TEXAS GRAIN PRODUCER INDEMNITY BOARD

6 Sec. 41.201. DEFINITIONS. In this subchapter:

7 (1) "Board" means the Texas Grain Producer Indemnity
8 Board.

9 (2) "Claim initiation date" means the earliest date on
10 which a grain buyer:

11 (A) files for federal bankruptcy protection;

12 (B) becomes the subject of an involuntary
13 bankruptcy proceeding;

14 (C) is found to be insolvent by a court or a state
15 or federal licensing agency;

16 (D) is ordered by a court having jurisdiction to
17 pay a judgment to a grain producer; or

18 (E) loses its public warehouse license under:

19 (i) the United States Warehouse Act (7
20 U.S.C. Section 241 et seq.); or

21 (ii) Chapter 14.

22 (3) "Financial failure" means an event described by
23 Subdivision (2)(A), (B), (C), (D), or (E).

24 (4) "Grain" means corn, soybeans, wheat, and grain
25 sorghum.

26 (5) "Grain buyer" means a person who buys grain from a
27 grain producer or stores unsold grain for a grain producer. The

1 term includes:

- 2 (A) a purchaser;
- 3 (B) a warehouseman;
- 4 (C) a processor; or
- 5 (D) a commercial handler.

6 (6) "Grain producer" means a person, including the
7 owner of a farm on which grain is produced, or the owner's tenant or
8 sharecropper, engaged in the business of producing grain or causing
9 grain to be produced for commercial purposes.

10 Sec. 41.202. DECLARATION OF POLICY. (a) The legislature
11 intends for the board to indemnify grain producers for economic
12 hardships in the event that a grain buyer is unable to pay the grain
13 producer for the grain producer's grain.

14 (b) The board shall be the certified organization to
15 indemnify grain producers under this subchapter.

16 Sec. 41.203. CONFLICT WITH GENERAL COMMODITY LAW
17 PROVISIONS. To the extent that this subchapter conflicts with
18 other provisions of this chapter, this subchapter prevails.

19 Sec. 41.204. BOARD. (a) The board is composed of:

20 (1) one representative of each of the following
21 organizations or their successor organizations who is recommended
22 to the commissioner by the board of directors of the organization
23 and appointed by the commissioner:

- 24 (A) the Corn Producers Association of Texas;
- 25 (B) the Texas Wheat Producers Association;
- 26 (C) the Texas Grain Sorghum Association;
- 27 (D) the Texas Soybean Association; and

1 (E) the Texas Farm Bureau; and
2 (2) the following members, appointed by the
3 commissioner:

4 (A) one representative of either the Texas
5 Agricultural Cooperative Council, the Texas Grain & Feed
6 Association, or one of their successor organizations;

7 (B) one representative of the non-warehouse
8 grain-buying industry;

9 (C) one member with expertise in production
10 agriculture financing; and

11 (D) one attorney with expertise in bankruptcy and
12 grain contracts.

13 (b) Members of the board serve staggered terms of two years
14 each and may serve for a maximum of three terms.

15 (c) The directors described by Subsection (a)(1) shall
16 select a chair and vice chair from among those directors.

17 (d) A vacancy on the board, including a vacancy resulting
18 from the failure of a board member to fulfill the board member's
19 responsibilities, shall be filled in the manner provided by
20 Subsection (a). If a vacancy on the board is the result of an
21 organization described by Subsection (a) dissolving or failing to
22 fulfill its responsibilities under this subchapter, the
23 commissioner may fill the vacancy by appointing an individual from
24 the sector or industry represented by the organization.

25 Sec. 41.205. DUTIES OF BOARD. The board shall meet at least
26 once each year to:

27 (1) review expenses of the board, claims made to the

1 board by grain producers, and amounts paid on claims by the board;

2 (2) coordinate all matters relating to the board,
3 including the board's budget under Section 41.059, and the revenues
4 necessary to accomplish the purposes of the board;

5 (3) establish, maintain, or adjust the rate of
6 assessments collected under Section 41.206; and

7 (4) determine the most effective use of the board's
8 budget to provide protection to grain producers.

9 Sec. 41.206. COLLECTION OF ASSESSMENT. (a) Except as
10 provided by this subsection, a grain buyer shall collect
11 assessments in the manner prescribed for processors under Section
12 41.081. Section 41.081(b) does not apply to the collection of
13 assessments under this section.

14 (b) Except as provided by Subsection (c), not later than the
15 10th day of each quarter of the calendar year, the grain buyer shall
16 remit the amount collected during the preceding quarter to the
17 secretary-treasurer of the board for deposit with the bank selected
18 by the board under Section 41.060.

19 (c) The grain buyer may retain a portion of the assessment
20 in an amount determined by the board to cover the grain buyer's
21 administrative costs in collecting the assessment.

22 Sec. 41.207. ASSESSMENTS; APPLICABILITY OF OTHER LAW.

23 (a) An assessment levied on grain producers shall be applied by
24 the board to efforts relating to the indemnification of grain
25 producers in this state, including administrative costs of
26 conducting an assessment referendum.

27 (b) Assessments collected by the board are not state funds

1 and are not required to be deposited in the state treasury.

2 (c) Sections 41.082 and 41.083 do not apply to an assessment
3 collected under this subchapter.

4 Sec. 41.208. INITIATION OF CLAIM. (a) A grain producer who
5 has delivered grain to a grain buyer may initiate a claim with the
6 board as provided by board rule if:

7 (1) the grain buyer has suffered a financial failure
8 and:

9 (A) has failed to pay to a grain producer an
10 amount owed to the grain producer; or

11 (B) is unable to deliver to the grain producer
12 grain held by the grain buyer for the grain producer as a bailment;
13 and

14 (2) the grain producer provides to the board:

15 (A) written documentation showing that the grain
16 was delivered to the grain buyer; and

17 (B) a copy of the written contract for purchase
18 of the grain signed by the grain producer and the grain buyer and
19 showing:

20 (i) the agreed price for the grain;

21 (ii) the amount of grain purchased; and

22 (iii) any other relevant term required by
23 the board to establish facts related to the claim.

24 (b) A claim under this section must:

25 (1) be initiated not more than 60 days after the
26 applicable claim initiation date; and

27 (2) be for a loss of grain delivered to the grain buyer

1 not more than one year before the applicable claim initiation date.

2 Sec. 41.209. PAYMENT OF CLAIM. (a) After a claim is
3 initiated by a grain producer under Section 41.208, the board may
4 take any action necessary to:

5 (1) investigate the grain producer's claim; and

6 (2) determine the amount due to the grain producer
7 within the limit prescribed by Subsection (b) and subject to
8 Subsection (e).

9 (b) In determining the amount due to a grain producer under
10 Subsection (a) for a loss of grain, the board may award the grain
11 producer not more than 90 percent of:

12 (1) the value of the grain on the claim initiation
13 date, as determined by board rule, if the grain has not been sold;
14 or

15 (2) the contract price of the grain, if the grain has
16 been sold.

17 (c) Except as provided by Subsection (d), the board shall,
18 not later than the 30th day after the date the board makes a
19 determination under Subsection (a):

20 (1) pay to the grain producer the amount determined
21 under Subsection (a); or

22 (2) notify the grain producer that the grain
23 producer's claim is denied.

24 (d) If claims filed with the board that are due to grain
25 producers under this section exceed the amount of the board's
26 budget allocated for the payment of claims, the board shall pay each
27 grain producer on a prorated basis without regard to the order in

1 which claims are made or approved. The board shall pay the
2 remainder of the amount owed to each grain producer on a prorated
3 basis from future revenue as the revenue is collected.

4 (e) The board may deny a grain producer's claim in whole or
5 in part:

6 (1) if the grain producer has a history of failure to
7 pay assessments under Section 41.206;

8 (2) if the applicable grain buyer has a history of
9 failure to collect assessments as required by Section 41.206;

10 (3) if the documentation submitted by the grain
11 producer in support of the grain producer's claim is incomplete,
12 false, or fraudulent;

13 (4) to prevent the grain producer from recovering from
14 multiple payments an amount greater than the amount the grain
15 producer lost due to the financial failure of a grain buyer or to
16 the grain buyer's refusal, failure, or inability to deliver to the
17 grain producer grain held by the grain buyer as a bailment,
18 including:

19 (A) payments made by the board;

20 (B) payments made from a grain warehouse
21 operator's bond;

22 (C) payments ordered by a bankruptcy court; or

23 (D) a recovery under a state or federal crop
24 insurance policy or program; or

25 (5) if documentation submitted by the grain producer
26 demonstrates that deferred payment on sold grain was beyond normal
27 and customary practices.

1 (f) The board may adopt rules specifying the circumstances
2 under which a claim may be denied in whole or in part under
3 Subsection (e).

4 Sec. 41.210. REIMBURSEMENT OF BOARD BY GRAIN BUYER;
5 SUBROGATION OF RIGHTS. (a) If the board pays a claim against a
6 grain buyer, the board is subrogated to all rights of the grain
7 producer against:

8 (1) the grain buyer, to the extent of the amount paid
9 to a grain producer by the board; and

10 (2) any other entity from which the grain producer is
11 entitled to a payment for the loss giving rise to the grain
12 producer's claim under this subchapter.

13 (b) Funds recovered under this section shall be deposited
14 with the depository bank selected by the board under Section
15 41.060.

16 Sec. 41.211. RULES. Except as provided by Section 41.212,
17 the board may adopt rules as necessary to implement this
18 subchapter, including rules relating to:

19 (1) notice and collection of assessments;

20 (2) the management of the board's budget;

21 (3) administration of the board's duties;

22 (4) the statewide referendum conducted under Section
23 41.212;

24 (5) the selection of agents, designees, or devices to
25 carry out the intent of the board; and

26 (6) guidelines for industry practices that do or do
27 not qualify for indemnification by the board.

1 Sec. 41.212. REFERENDUM; BALLOTING. (a) The commissioner
2 shall conduct a referendum of grain producers to determine the
3 maximum amount that may be assessed to a grain producer under
4 Section 41.206.

5 (b) Only a grain producer who has sold grain to a grain buyer
6 in the 36 months preceding the date of the referendum is eligible to
7 vote in the referendum.

8 (c) An eligible grain producer may vote only once in a
9 referendum.

10 (d) Each grain producer's vote is entitled to equal weight
11 regardless of the grain producer's volume of production.

12 (e) A referendum is approved if a simple majority of votes
13 are cast in favor of the referendum.

14 (f) Individual voter information, including an individual's
15 vote in a referendum conducted under this section, is confidential
16 and not subject to disclosure under Chapter 552, Government Code.

17 (g) The board shall locate private sources, including the
18 organizations described by Section 41.204(a)(1), to pay all
19 expenses incurred in conducting a referendum.

20 (h) The commissioner shall adopt rules as necessary to
21 implement this section.

22 Sec. 41.213. NOTICE OF REFERENDUM. (a) The commissioner
23 shall give public notice of:

24 (1) the date, hours, and polling places for voting in
25 the referendum conducted under Section 41.212;

26 (2) the estimated amount of the assessment proposed to
27 be collected, as determined by the board, and the basis for which

1 the assessment will be collected; and

2 (3) a description of the manner in which the
3 assessment is to be collected and the proceeds administered and
4 used.

5 (b) The commissioner shall publish the notice under
6 Subsection (a) in one or more statewide or regional newspapers that
7 provide reasonable notice throughout the state. The notice shall
8 be published at least 60 days before the date of the referendum. In
9 addition, at least 60 days before the date of the referendum the
10 commissioner shall give direct written notice to the county agent
11 in each county of this state.

12 Sec. 41.214. REFUND OF ASSESSMENTS. (a) Except as provided
13 by Subsection (d), a grain producer who has paid an assessment under
14 Section 41.206 may obtain a refund of the amount paid by filing an
15 application for refund with the board.

16 (b) The application must:

17 (1) be in writing, on a form prescribed by the board
18 for that purpose; and

19 (2) be accompanied by:

20 (A) proof of payment of the assessment; and

21 (B) an affidavit stating that the grain producer
22 does not wish to participate in or be covered by the indemnification
23 established under this subchapter.

24 (c) A grain producer who receives a refund under this
25 section may not make a claim for indemnification under Section
26 41.208 for the grain for which the refund was received.

27 (d) If requests for refunds under this section exceed the

1 amount of the board's budget allocated for the payment of claims,
2 the board shall issue refunds to each grain producer on a prorated
3 basis without regard to the order in which requests for refunds are
4 made. The board shall pay the remainder of the amount owed to each
5 grain producer on a prorated basis from future revenue as the
6 revenue is collected.

7 Sec. 41.215. ANNUAL REPORT. (a) The board shall submit a
8 report to the commissioner annually that contains a summary of the
9 board's activities and a review of the board's effectiveness.

10 (b) The board shall post the report online on the board's
11 Internet website.


12 SECTION 4. (a) As soon as practicable on or after the
13 effective date of this Act, but not later than December 31, 2011,
14 the entities specified in Section 41.204, Agriculture Code, as
15 added by this Act, shall recommend and the commissioner of
16 agriculture shall appoint the members of the Texas Grain Producer
17 Indemnity Board in compliance with that section to serve terms that
18 begin January 1, 2012.

19 (b) The members of the board appointed under Subsection (a)
20 of this section shall draw lots to determine which initial terms of
21 four members expire January 1, 2013, and which initial terms of five
22 members expire January 1, 2014.

23 SECTION 5. This Act takes effect September 1, 2011.

ADOPTED

MAY 13 2011


Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: 

1 Amend H.B. No. 1840 (senate committee printing) in SECTION 3
2 of the bill as follows:

3 (1) Strike added Sections 41.204(a)(2)(A) through (D),
4 Agriculture Code (page 2, lines 24-32), and substitute the
5 following:

6 (A) one representative of the Texas Agricultural
7 Cooperative Council or its successor organization;

8 (B) one representative of the Texas Grain & Feed
9 Association or its successor organization;

10 (C) one representative of the non-warehouse
11 grain-buying industry; and

12 (D) one member with expertise in production
13 agriculture financing.

14 (2) In added Section 41.205, Agriculture Code (page 2, line
15 45), between "BOARD." and "The board", insert "(a)".

16 (3) In added Section 41.205, Agriculture Code (page 2, line
17 46), strike "once each year" and substitute "quarterly".

18 (4) After added Section 41.205, Agriculture Code (page 2,
19 between lines 55 and 56), insert the following:

20 (b) Notwithstanding Chapter 551, Government Code, the board
21 may hold an open or closed meeting by telephone conference call or
22 video conference if:

23 (1) immediate action or a quarterly meeting is
24 required; and

25 (2) the location at which a quorum of the board
26 convenes is inconvenient for any member of the board.

27 (c) A meeting under Subsection (b) is subject to the notice
28 requirements of Chapter 551, Government Code.

29 (d) Notice of a meeting under Subsection (b) must specify

1 that the location at which meetings of the board are usually held is
2 the location of the meeting.

3 (e) Each part of an open meeting under Subsection (b) shall
4 be conducted in a manner that is audible to the public at the
5 location specified in the notice of the meeting. The board shall
6 ensure that each open meeting is tape recorded and that the tape
7 recording is made available to the public after the meeting.

8 (5) After added Section 41.206(c), Agriculture Code (page
9 2, between lines 68 and 69), insert the following:

10 (d) The board shall notify the grain producer of the manner
11 by which the grain producer may initiate a claim under Section
12 41.208. The notice may be provided in a manner determined by the
13 board.

14 (6) Strike added Section 41.208(b)(1), Agriculture Code
15 (page 3, lines 30-31), and substitute the following:

16 (1) be initiated:

17 (A) not more than 60 days after the applicable
18 claim initiation date; or

19 (B) before a date determined by the board to be
20 reasonable, if the board determines such a date; and

21 (7) After added Section 41.209(b), Agriculture Code (page
22 3, between lines 48 and 49), insert the following:

23 (c) The board shall make a determination under Subsection
24 (a) within a reasonable period of time as established by the board.

25 (8) Strike added Section 41.209(e)(1), Agriculture Code
26 (page 3, lines 65-66), and substitute the following:

27 (1) if the grain producer has failed to pay
28 assessments for the current growing season under Section 41.206;

29 (9) After added Section 41.209(e), Agriculture Code (page
30 4, between lines 17 and 18), insert the following new subsection,
31 appropriately lettered:

1 () Notwithstanding Subsection (f)(3), if the board
2 determines that the documentation submitted in support of a grain
3 producer's claim is incomplete, the board shall give the grain
4 producer an opportunity to provide complete documentation.

5 (10) Reletter the subsections of added Section 41.209,
6 Agriculture Code, and correct cross-references appropriately.

7 (11) In added Section 41.212(e), Agriculture Code (page 4,
8 lines 56-57), strike "a simple majority of votes are cast in favor
9 of the referendum", and substitute "the referendum meets the
10 requirements of Section 41.031".

11 (12) In added Section 41.213(b), Agriculture Code (page 5,
12 lines 10 and 11), strike "60" both places it appears and substitute
13 "90".

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 14, 2011

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

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

IN RE: HB1840 by Phillips (Relating to the creation and functions of the Texas Grain Producer Indemnity Board.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would create the Texas Grain Producer Indemnity Board, which would collect assessments from grain buyers to be deposited to a fund that may be held outside the state treasury. This fund would be used to pay claims to grain producers who have delivered grain to a grain buyer under certain circumstances.

The bill would require the Commissioner of Agriculture to conduct a referendum of grain producers to determine the maximum amount that may be assessed to a grain producer under provisions which would be established by this bill.

This analysis assumes any additional work resulting from the passage of the bill could be reasonably absorbed by the Department of Agriculture within current resources.

The bill would take effect September 1, 2011.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

LBB Staff: JOB, SZ, AH

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 10, 2011

TO: Honorable Craig Estes, Chair, Senate Committee on Agriculture & Rural Affairs

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

IN RE: HB1840 by Phillips (Relating to the creation and functions of the Texas Grain Producer Indemnity Board.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would create the Texas Grain Producer Indemnity Board, which would collect assessments from grain buyers to be deposited to a fund that may be held outside the state treasury. This fund would be used to pay claims to grain producers who have delivered grain to a grain buyer under certain circumstances.

The bill would require the Commissioner of Agriculture to conduct a referendum of grain producers to determine the maximum amount that may be assessed to a grain producer under provisions which would be established by this bill.

This analysis assumes any additional work resulting from the passage of the bill could be reasonably absorbed by the Department of Agriculture within current resources.

The bill would take effect September 1, 2011.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

LBB Staff: JOB, SZ, AH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 18, 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 and functions of the Texas Grain Producer Indemnity Board.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would create the Texas Grain Producer Indemnity Board, which would collect assessments from grain buyers to be deposited to a fund that may be held outside the state treasury. This fund would be used to pay claims to grain producers who have delivered grain to a grain buyer under certain circumstances.

The bill would require the Commissioner of Agriculture to conduct a referendum of grain producers to determine the maximum amount that may be assessed to a grain producer under provisions which would be established by this bill.

This analysis assumes any additional work resulting from the passage of the bill could be reasonably absorbed by the Department of Agriculture within current resources.

The bill would take effect September 1, 2011.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

LBB Staff: JOB, SZ, AH

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