LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 16, 2013

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2352** by Hunter (Relating to the operation of the Texas Windstorm Insurance Association and to catastrophe preparedness in the seacoast territories of this state; authorizing assessments, surcharges, and fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2352, As Introduced: an impact of $0 through the biennium ending August 31, 2015.

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
2014	$0
2015	$0
2016	$0
2017	$0
2018	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *Insurance Maint Tax Fees* 8042	Probable Savings/(Cost) from *Insurance Maint Tax Fees* 8042
2014	$4,388,200	($4,388,200)
2015	$4,093,245	($4,093,245)
2016	$4,093,245	($4,093,245)
2017	$4,093,245	($4,093,245)
2018	$4,093,245	($4,093,245)

Fiscal Year	Change in Number of State Employees from FY 2013
2014	64.0
2015	64.0
2016	64.0
2017	64.0
2018	64.0

Fiscal Analysis

The bill would amend the Insurance Code relating to the operation of the Texas Windstorm Insurance Association (TWIA) and to catastrophe preparedness in the seacoast territories of this state and authorizing assessments, surcharges, and fees. The bill would prohibit the issuance of public securities under Chapter 2210 of the Insurance Code on or after September 1, 2013. The prohibition to issue public securities would expire on September 1, 2027.

If a catastrophe occurs on or after September 1, 2013, the bill would require TWIA to pay losses in excess of premiums and other revenues from available reserves of the association and available amounts in the catastrophe reserve trust fund. The bill would also require that losses in excess of those amounts to be paid from the proceeds of public securities issued. Class A Securities would be issued in an amount not to exceed $1 billion per occurrence or series of occurrences in a calendar year that result in insured losses under the provisions of the bill. Also, TWIA would be required to pay Class A public securities issued from net premium and other revenue.

If amounts collected from the issuance of Class A securities is not enough to cover the costs of the catastrophe, then Class B Securities would be issued in an amount not to exceed $900 million per occurrence or series of occurrences in a calendar year that result in insured losses. TWIA shall pay Class B public securities issued from net premium and other revenue and a first tier coastal county premium surcharge.

If amounts collected from the issuance of Class B securities would not be enough to cover the costs of the catastrophe, then the bill would require Class C Securities to be issued in a principal amount not to exceed $2.75 billion per occurrence or series of occurrences in a calendar year that result in insured losses. The bill would require TWIA to pay Class C public securities issued from net premiums, other revenues, and a statewide premium surcharge.

Under the provisions of the bill, a catastrophic event of a magnitude and severity that necessitates the issuance of Class D public securities constitutes a public calamity and allows for Class D Securities to be issued in a principal amount necessary to cover the costs of insured losses. The bill would require TWIA to pay Class D public securities issued from net premiums and other revenues as well as money received from any source, including money appropriated for the purpose of repaying Class D public securities. The bill would specify that any public security issued under this subchapter would not be a debt of the state, any state agency, or political subdivision of this state and does not constitute a pledge of faith and credit of this state and that profits made from the sale of these public securities are exempt from taxation by the state or any other political subdivision of the state.

In any year in which the commissioner of insurance determines that the available balance in the catastrophe reserve trust fund is less than 1.5 percent of TWIA's total exposure, or in which any class of public security issued under this bill's provisions remains outstanding, the Texas

Department of Insurance (TDI) would be required under the provisions of the bill to assess each property insurer in this state and each policyholder of a policy that covers property in a first tier coastal county. The bill would require the amount of the insurer assessment to be 0.15 percent of TWIA's direct exposure for the previous calendar year. The premium surcharge would be 3.9 percent of premiums. The bill would prohibit insurer assessments from being taken as premium tax credits and premium surcharges would not be subject to the premium tax or commissions. Proceeds from the assessments and surcharges would be deposited to the catastrophe reserve trust fund under the provisions of the bill.

The bill would impose additional requirements for the exit of TWIA from conservatorship and require TWIA to develop an automated application and renewal process. The bill would require an additional surcharge of 20 percent to reinstate policies for insured individuals who cancel or allow coverage to lapse and requires premium discounts for certain remediation measures and imposes certain restrictions on the uses of any TWIA net gain from operations.

The bill would allow TWIA to establish a reinsurance program and require TWIA to maintain an electronic database designed to assist insurers in participating in the seacoast windstorm market and make certain modifications to the claims settlement process for voluntary windstorm and hail coverage for property located in the seacoast territory.

The bill would amend the Local Government Code and Chapter 32 of the Insurance Code to impose certain building code restrictions on residential construction started on or after the effective date of this act in seacoast territories and require TDI to conduct inspections for compliance and issue a certificate of compliance if the construction meets all minimum standards.

This bill would take effect September 1, 2013.

Methodology

This analysis does not reflect estimates on the fiscal impact of assessments made by TDI on insurers in the state or premium surcharges charged to policy holders in the event of a disaster as those revenues are deposited to the catastrophe reserve trust fund and accounted for outside the treasury.

Based on information provided by TDI, the agency conducted an average of 9,300 property inspections in first tier counties during the past 3 fiscal years. The bill would require TDI to conduct new property inspections in second tier counties resulting in an additional 27,900 inspections each fiscal year. TDI estimates that 1 inspector can perform approximately 664 inspections each year, therefore, the agency anticipates needing an additional 42 FTEs for Inspectors and an additional 5 FTEs to provide administrative support in the field offices. These mandatory inspections would also result in an increase in the issuance of certification for residential structures. TDI issued an average of 31,426 certifications during the past 3 fiscal years. The agency anticipates that an additional 94,278 certifications per fiscal year will be issued in second tier counties. An Insurance Specialist can process approximately 6,285 inspection forms per year therefore the agency will need an additional 15 FTEs to process the additional certifications. Additionally, TDI anticipates needing an additional 2 accountant FTEs to prepare billing, perform monitoring and reporting, and process the additional revenues and deposits. The additional work in second tier counties would require TDI to establish and maintain 4 additional windstorm field offices. In fiscal year 2014, the cost for the additional FTEs and resources is estimated to be $4,388,200, which includes salary, benefits, rent, travel, equipment, other operating expenses and an estimated $294,955 in one-time costs for equipment. In fiscal years

2015 through 2018, the estimated cost would be $4,093,245 each fiscal year.

For the purposes of this analysis, it is assumed that any costs in General Revenue-Insurance Maintenance Tax funds for the implementation of this bill would be offset by an adjustment of equal amount on the assessment of the maintenance tax or other fees accordingly in the following year.

Based on information provided by the Comptroller of Public Accounts, there would be no administrative costs to the Comptroller's Office associated with the implementation of the provisions of the bill.

Technology

TDI estimates a cost of $78,400 in fiscal year 2014 related to technology.

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: UP, AG, MW, ER, KKR, RB