LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 26, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB734** by Carona (Relating to the licensing of captive insurance companies; authorizing fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB734, As Introduced: a negative impact of ($2,753,000) through the biennium ending August 31, 2015. Certain provisions of the bill would have an indeterminate revenue gain in fiscal years 2014 through 2018, offsetting the costs. The revenue gain is unknown due to the unavailability of data regarding the number of entities to which the fee would apply.

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	($2,753,000)
2016	($2,839,000)
2017	($2,927,000)
2018	($3,017,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Foundation School Fund* 193
2014	$0	$0
2015	($2,065,000)	($688,000)
2016	($2,129,000)	($710,000)
2017	($2,195,000)	($732,000)
2018	($2,263,000)	($754,000)

Fiscal Analysis

The bill would amend the Insurance Code relating to the licensing of captive insurance companies and authorizing fees. The bill would allow the licensing of captive insurers, defined as a company that insures the operational risks of the company's affiliates. The bill would require captive insurance companies to apply for, and obtain, a certificate of authority from the Texas Department of Insurance (TDI). The bill would require an application fee of $1,500 through calendar 2018; from January 1, 2019, onward TDI could set a higher application fee by rule to cover the costs of administering this chapter.

The bill would describe the certificate application and approval process, as well as captive insurance company reporting requirements and investment restrictions. The bill would prohibit captive insurance companies from contributing to, or receiving benefits from any guaranty association funds. Data reported by captive insurance companies to TDI would be protected by certain confidentiality guarantees under the provisions of the bill and TDI could, in certain circumstances, suspend or revoke a captive's certificate of authority.

The bill would subject captive insurance companies to a 0.5 percent premium tax on all business written, with the total premium tax not to exceed $200,000 per company. The bill would also subject captive companies to maintenance taxes, as applicable to the lines of business written.

Not later than January 1, 2014, the insurance commissioner would be required to adopt rules and procedures necessary to implement this chapter's provisions.

This bill would take effect immediately upon receiving a two-thirds majority votes in both houses; otherwise, it would take effect September 1, 2013.

Methodology

Estimates provided by the Comptroller of Public Accounts (CPA) were the basis of this analysis. According to the CPA under current law, insurance premiums paid to captive insurance companies are generally considered to be unauthorized insurance and are taxed at a rate of 4.85 percent. In calendar 2011, $58,000,000 in captive insurance premiums were reported to the CPA and $2,801,000 in unauthorized insurance premium tax payments were received (in fiscal 2012). Under the terms of this bill, those premiums would have been taxed at a rate of 0.5 percent and the associated premium tax revenue would have been $289,000, a reduction of $2,512,000. The analysis assumes that insurance premiums paid to captive insurance companies will grow at the average rate of growth of premium tax revenue from 2006-12 (3.1 percent). Since insurance taxes are calculated, assessed, and collected on a calendar year basis, the analysis above assumes an effective date of January 1, 2014. Amounts in the table above reflect anticipated losses based on the differences in the tax rates.

Over the period of the analysis provided by the CPA, TDI would collect a $1,500 fee from each applicant. As the number and timing of applications is unknown, the CPA reports that the amount of fee revenue collected cannot be determined. For illustrative purposes, the $58,000,000 in 2011 premiums referenced above was paid by 12 captive insurance companies. Premiums paid to captive insurance companies would be subject to insurance maintenance taxes. However, the maintenance tax rates are set anew each year to cover TDI's operating costs and the amount of additional maintenance tax revenue, if any, cannot be determined.

Based on information provided by the Comptroller of Public Accounts, the other provisions of the bill would have no fiscal impact. Based on information provided by the TDI, it is assumed that all duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: UP, RB, MW, ER, LXH