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: **SB1700** by Taylor (Relating to the operation of the Texas Windstorm Insurance Association and the FAIR Plan Association.), **As Introduced**

Implementing the provisions of the bill would result in an indeterminate loss to the state due to an unknown decrease in premium tax revenue. The fiscal impact is contingent on a disaster of unknown size and scope, as well as on certain determinations by each insurer.

The bill would amend the Insurance Code relating to the operation of the Texas Windstorm Insurance Association and the Fair Access to Insurance Requirements (FAIR) Plan Association.

The bill would amend Chapter 2210 of the Insurance Code to rename the Texas Windstorm Insurance Association (TWIA) as the Texas Insurance Plan (TIP) and modify the manner in which excess losses would be paid. The bill would require the commissioner of insurance to contract with an administrator to run TIP, the FAIR plan, and administer the department's plan of operation. The term of the administrator could not exceed five years and would be renewable.

Under current law, TWIA would pay losses in excess of available reserves and amounts available in the Catastrophe Reserve Trust Fund (CRTF) through the issuance of Class 1, Class 2, and Class 3 public securities. Under the terms of the bill, provisions relating to the issuance of Class 2 public securities would remain unchanged. Class 1 and Class 3 securities would no longer be issued and would be replaced by Class 1 and Class 3 funds.

Losses in excess of premiums and available revenue would be paid from Class 1 funds from the CRTF and member assessments. The CRTF would fund excess losses in an amount not to exceed $1 billion. Following the use of funds from the CRTF, TIP could assess members in an amount not to exceed the lesser of $800 million or $1 billion less the amount of CRTF funds used. Excess losses not paid through the use of Class 1 funds or the issuance of Class 2 public securities would be paid by Class 3 funds received from member assessments not to exceed $800 million less the amount of Class 1 assessments made as described above. The first $300 million assessed to TIP members could be used as premium tax credits in amounts not to exceed 20 percent per year for five or more years following the year of payment of the claims.

The bill would allow the use of the CRTF to pay administrative expenses and reinsurance and, contingent upon commissioner approval, the transfer of amounts in excess of $1 billion to the premium surcharge trust fund established for the repayment of Class 2 public securities.

This bill would require TIP to annually deposit with the Texas Treasury Safekeeping Trust Company in an account outside the treasury the greater of $200 million or one half of TIP's earned premium for the current calendar year. Not later than February 1 of each year funds so deposited, and any interest earned, would be transferred to the CRTF.

The bill would impose certain restrictions on the purchase of reinsurance by TIP and require that the insurer that has primary coverage on property for fire loss adjust all claims on a TIP policy covering the same property.

The bill would amend Chapter 2211 of the Insurance Code, regarding FAIR, to impose certain requirements on the FAIR plan administrator.

The bill would repeal Sections 2210.605(c), 2210.608(c), 2210.6135 and 2210.6136 of the Insurance Code to make conforming changes.

Implementing the provisions of the bill would result in an indeterminate loss to the state due to an unknown decrease in premium tax revenue. The amount and timing of any assessments and associated premium tax credits is unknown. While the insurance companies would be issued tax credits that would offset the cost of the assessments at a rate not to exceed $300 million, and those tax credits could then be taken against any premium taxes owed to the state at a rate not to exceed 20% per year for 5 or more years, the amount of the total credits issued would be contingent on a disaster of unknown size and scope, as well as the unknown factor of how much each insurer would choose to take each year.

Additionally, this analysis does not reflect estimates of the fiscal impact of assessments made by TDI on insurers in the state in the event of a disaster as those revenues are deposited to the CRTF and accounted for outside the treasury.

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 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, 347 Public Finance Authority, 352 Bond Review Board, 454 Department of Insurance

LBB Staff: UP, RB, MW, ER