LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 8, 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 and the renaming of the Texas Windstorm Insurance Association as the Texas Residual Insurance Plan.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

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 and the renaming of Texas Windstorm Insurance Association as the Texas Residual Insurance Plan.

The bill would amend Chapter 2210 of the Insurance Code to rename the Texas Windstorm Insurance Association (TWIA) as the Texas Residual Insurance Plan (TRIP). The bill would require the Texas Department of Insurance (TDI) to conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance market.

The bill would require the commissioner of insurance to contract with an administrator to manage TWIA and administer the plan of operation beginning January 1, 2014. The contract may not exceed five years, but may be renewed for additional terms. The administrator would be subject to audit by the commissioner of insurance and be required to pay the costs incurred by the commissioner in an amount the commissioner finds reasonable. The administrator would further be required to submit a report regarding the administrator's duties.

In the event of a catastrophe, the bill would require TWIA to pay for losses in excess of premiums and other revenues from available reserves and amounts in the Catastrophe Reserve Trust Fund (CRTF). The bill would require that losses in excess of those amounts be paid from Class 1 member assessments in an amount not to exceed $500 million for any catastrophe year. Under the provisions of the bill, each member's assessment must be calculated in a proportionate amount equal to the insurer's participation in the association. The bill would prohibit insurers from recouping an assessment paid through Class 1 member assessments through a premium surcharge or a tax credit. Any losses TWIA determines cannot be paid through available reserves or Class 1 member assessments must be paid from the proceeds from Class 1 public securities issued in an amount not to exceed $500 million per catastrophe year. TWIA would be required to pay Class 1 public securities issued in accordance with Subchapter M of the Insurance Code, including the use of revenues from premium surcharges on policyholders.

If amounts collected from the issuance of Class 1 public securities are not sufficient to cover the costs of the catastrophe, then TWIA would be required to pay for those costs from Class 2 member assessments in an amount not to exceed $500 million for that catastrophe year. Under the provisions of the bill, each member's assessment must be calculated in a proportionate amount equal to the insurer's participation in the association. The bill would prohibit insurers from recouping an assessment paid through Class 2 member assessments through a premium surcharge or a tax credit. If amounts collected from Class 2 member assessments are not sufficient to cover the costs of the catastrophe, then TWIA would pay for those costs from Class 2 public securities issued in an amount not to exceed $500 million per catastrophe year. TWIA would be required to pay Class 2 public securities issued in accordance with Subchapter M of the Insurance Code, including the use of revenues from premium surcharges on policyholders.

The bill would require TWIA to phase in a reduction of the total insured exposure as of January 1, 2013 by 60 percent by no later than January 1, 2024. If TWIA does not achieve the targeted reduction by the specified target dates, the board of directors must establish a plan to reduce the association's total insured exposure, which must include imposing an assessment against all members in an amount not to exceed $200 million. The bill would prohibit an insurer from recouping an assessment through a premium surcharge or tax credit. No less than twice a year, the administrator of TWIA must submit a report to the commissioner of insurance detailing the amount of TWIA's total insured exposure.

The bill would require TWIA to make monthly deposits into a trust fund established with the Texas Treasury Safekeeping Trust Company separate from the CRTF. The amount of the deposits must be an amount sufficient to accumulate, on an annual calendar year, an amount equal to 30 percent of TWIA's earned premium for the preceding calendar year. No later than February 1 of each year, the funds accumulated in the new trust fund must be transferred to the CRTF.

The bill would require TWIA to purchase reinsurance or use alternative risk financing mechanisms in an amount equal to $1 billion to be used in addition to public securities and other approved financial instruments authorized in Chapter 2210 of the Insurance Code. The bill would require TWIA to purchase additional reinsurance funded through an assessment on TWIA members in an amount not greater than the lesser of $800 million or an amount sufficient to fund its probable maximum loss for a catastrophe year with a probability of 1 in 100. Both reinsurance policies would have attachment points equal to no less than the aggregate amount of all funding available to TWIA.

The bill defines premium surcharges as a separate charge in addition to premiums collected and would exempt them from premium taxes or commissions.

The bill would take effect immediately if it receives a two-thirds vote of all members elected to each house; otherwise, the act takes effect September 1, 2013.

This analysis does not reflect estimates of the fiscal impact of assessments made by TWIA 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. Further, because the state is not liable for any public issuances by or on behalf of TWIA, the bill would have no fiscal implications to the state.

Based on information provided by the Texas Department of Insurance (TDI), implementing the provisions of the bill could be accomplished utilizing existing staff and 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