LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION
Revision 1

May 24, 2007

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: **HB3315** by Keffer, Jim (Relating to the imposition and collection of certain insurance taxes, the adoption of certain reciprocal or multistate agreements relating to those taxes, and the adoption of rules relating to those taxes.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3315, As Passed 2nd House: an impact of $0 through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	$0
2009	$0
2010	$0
2011	$0
2012	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *VOLUNTEER FIRE DEPT ASSISTANCE* 5064
2008	$15,000,000
2009	$15,000,000
2010	$15,000,000
2011	$15,000,000
2012	$30,000,000

Fiscal Analysis

The bill would amend various provisions in the Insurance Code to clarify current law, codify current practice, or conform the statutes to federal law, among other issues.

In addition, the bill would amend Chapters 225 and 226 and add Chapter 228 to allow the Comptroller to enter into reciprocal and cooperative agreements with other states relating to retaliatory taxes and the collection of insurance premium taxes on surplus lines, unauthorized, and independently procured insurance.

The bill would amend Chapter 281 to allow the Comptroller to enter into reciprocity agreements with other states to mutually set aside their retaliatory provisions in situations where those states determined that retaliation was not the preferred means of protecting their domestic insurers.

The bill would repeal Article 4.11A, relating to the administrative services tax, which has not been enforced since the state lost a federal lawsuit in 1991, relating to the federal preemption under the Employee Retirement Income Security Act (ERISA) statute.

The bill would repeal Section 281.006(a), relating to the treatment of certified capital company premium tax credits under the retaliatory tax to make the Texas statute consistent with the retaliatory tax statutes of all other states in that, as revised, the statute would not take into consideration tax credits or lower tax rates that result from investments or other financial commitments to a state.

The bill would amend Section 2007.002 to increase the annual aggregate assessment on certain insurers to fund GR Account 5064—Volunteer Fire Department Assistance to $30 million, from $15 million.

The bill would repeal Section 2007.009, which currently expires the chapter effective September 1, 2011.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

Methodology

With the exception of the items discussed below, the changes made by this bill would clarify current law, codify current practice, or conform the statutes to federal law and have no significant net fiscal impact.

The provisions relating to Chapters 225, 226, and 228 would allow the Comptroller to enter into cooperative agreements with other states relating to the collection of insurance premium taxes on surplus lines, unauthorized, and independently procured insurance. These sections would be permissive and depend on the nature and timing of any agreements so entered. Adoption of these sections would provide the state the flexibility to preserve the integrity of state law relative to the collection of premium taxes on surplus lines and independently procured insurance in response to potential federal mandates stemming from pending federal legislation relating to the states' ability to enforce their existing tax statutes. As such, the potential fiscal impact, if any, likely would be neutral or insignificant.

The repeal of Section 281.006(a) would reinstate the retaliatory tax calculation to the same comparison as before the legislation that implemented the certified capital company credits. Any potential fiscal impact cannot be estimated.

With respect to the proposed amendments to Chapter 2007, under current law, the Comptroller establishes an assessment rate against applicable insurers to yield aggregate assessment receipts of $15 million per year.

The bill would require that the annual rates be set to generate $30 million each year. The gain in fiscal 2012 and each year thereafter would be $30 million, because the bill would repeal the September 1, 2011 expiration date for the assessment.

Local Government Impact

Extra funds in the amounts shown above would be available for volunteer fire department assistance.

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

LBB Staff: JOB, CT, SD, EB