LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 2, 2007

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

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 and the adoption of certain reciprocal or multistate agreements relating to those taxes.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend various provisions in the Insurance Code to clarify current law, codify current practice, or conform the statutes to federal law; as well as, add a chapter to the Insurance Code to allow the Comptroller of Public Accounts to enter into reciprocal and cooperative agreements with other states relating to the collection of insurance premium taxes on surplus lines, unauthorized, and independently procured insurance.

The bill would repeal language relating to the administrative services tax. The Comptroller reports that the tax has not been enforced since the state lost a federal lawsuit in 1991 which related to the federal preemption under the Employee Retirement Income Security Act (ERISA) statute; therefore, no fiscal impact is anticipated.

The bill would also repeal language relating to the treatment of certified capital company premium tax credits under the retaliatory tax. The Comptroller states that this would make the Texas statute consistent with the retaliatory tax statutes of all other states in that; and 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. According to the Comptroller, the repeal would reinstate the retaliatory tax calculation to the same comparison as before the legislation that implemented the certified capital company credits; however, any potential fiscal impact cannot be estimated.

According to the Comptroller, the provisions of the bill that clarify current law, codify current practice, or conform the statutes to federal law would have no significant net fiscal impact. However, the provisions allowing the Comptroller to enter into cooperative agreements with other states would be permissive and depend on the nature and timing of any agreements so entered. Adoption of these sections is related 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 bill would 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. According to the Comptroller, the provision would have no significant fiscal impact.

The bill would take effect immediately upon enactment if it receives two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

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: JOB, CT, SD, EB