

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION
Revision 1

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB2774 by Truitt (relating to self-directed and semi-independent status of state financial regulatory agencies and the licensing and regulation of certain persons involved in residential mortgage lending; making an appropriation; providing a penalty.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2774, Conference Committee Report: an impact of \$0 through the biennium ending August 31, 2011.

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
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Savings from General Revenue Fund 1	Probable (Cost) from General Revenue Fund 1	Probable Revenue Gain from General Revenue Fund 1
2010	(\$27,398,000)	\$27,398,000	(\$15,809,000)	\$15,809,000
2011	(\$27,768,000)	\$27,768,000	(\$15,809,000)	\$15,809,000
2012	(\$27,803,000)	\$27,803,000	\$0	\$0
2013	(\$27,803,000)	\$27,803,000	\$0	\$0
2014	(\$27,803,000)	\$27,803,000	\$0	\$0

Fiscal Year	Probable Revenue Gain from new interest bearing accounts in the Texas Treasury Safekeeping Trust Company	Probable (Cost) from new interest bearing accounts in the Texas Treasury Safekeeping Trust Company	Change in Number of State Employees from FY 2009
2010	\$27,609,370	(\$27,609,370)	(444.5)
2011	\$28,255,395	(\$28,255,395)	(444.5)
2012	\$27,890,395	(\$27,890,395)	(444.5)
2013	\$27,890,395	(\$27,890,395)	(444.5)
2014	\$27,890,395	(\$27,890,395)	(444.5)

Fiscal Analysis

The bill would amend the Finance Code so that any amounts in the Mortgage Broker Recovery Fund 0848 over \$3.5 million would be available for the Finance Commission to use toward offsetting the cost of participating in the Nationwide Mortgage Licensing System and Registry (NMLSR). The bill would require the commissioner of the Department of Savings and Mortgage Lending (SML) to administer the mortgage broker recovery fund. Additionally, the mortgage advisory committee would be amended to become the mortgage industry broker advisory committee, effective April 1, 2010.

Fees amended in the Finance Code associated with the bill include a \$50 fee for any returned check or credit card charge back, changing the fee for an original or renewal license from \$20 to up to \$20, and an administrative penalty not to exceed \$1,000 for violators of a cease and desist order. The \$200,000 annual registration fee for the private finance service companies would include an increase in the fee based on the number of exclusive agents acting in the state. The fee for loan officer license renewals would increase from \$175 to \$275, and after January 1, 2011, the fee would increase not to exceed \$375.

The bill would add Chapter 16 to the Finance Code and repeal sections of the Finance Code under Chapters 12, 13, 14, 15, and 156. The bill would allow the Department of Banking (DOB), Office of Consumer Credit Commissioner (OCCC), SML, and the Credit Union Department (CUD), to become self-directed and semi-independent agencies. All fees and funds collected by an agency would be deposited into an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company. The Comptroller of Public Accounts (CPA) would be directed to contract with the financial agencies for the maintenance of the deposit accounts. If the financial agencies lost status as self-directed and semi-independent, the agencies would be responsible for any expenses or debts incurred during the time the agencies were classified as self-directed and semi-independent.

The bill would remove the agencies from the legislative budgeting process, and the budget would be adopted and approved only by the policy-making body of the respective agency. On the first day of each regular legislative session, each agency would be required to submit a report to the Legislature and the Governor describing all of the agency's activities in the previous biennium. In addition, the agency would be required to report its two year expenses and revenue collections by November 1 of each year to the Legislature, the Legislative Budget Board, and the Governor. Employees of the agencies would remain members of the Employees Retirement System of Texas under Chapter 812 of the Government Code.

The bill would require the State Auditor to contract with each agency to conduct financial and performance audits and would allow the Attorney General to collect fees from the agencies for legal services. The bill would also transfer all supplies, materials, records, equipment, and facilities used by each agency, including the Finance Commission Building and the Credit Union Department Building, to the Finance Commission and the Credit Union Commission.

The bill would make an appropriation of an amount equal to 50 percent of the amount of the General Revenue appropriated to each agency for fiscal year 2009 for a two-year period beginning fiscal year 2010. Under the provisions of the bill, the amount could be spent as the agency directs and would be repaid to the General Revenue Fund in the fiscal year in which it was appropriated.

The bill takes effect on September 1, 2009. Subsection (b-1) of Section 5 would take effect on April 1,

2010. Subsection (c) in Section 8 and Subsection (a) and (b) of Section 11 would expire on January 1, 2011. Subsection (c-1) of Section 9 would take effect on January 1, 2011. Subsections (a-1) and (b-1) of Section 12 would take effect January 1, 2011. Sections 1, 2, and 18 of this bill take effect only if House Bill 10 or another similar bill of the Regular Session of the 81st Legislature relating to the licensing of residential mortgage loan originators is enacted and becomes law.

Methodology

The analysis is based on information provided by the SML, OCCC, DOB, CUD, SAO, and the CPA and includes the following assumptions:

The Department of Savings and Mortgage Lending would require 1.0 Legal Assistant III position at \$52,419 each fiscal year from 2010-2015 with a benefits cost of \$14,976 each fiscal year due to the significant increase in legal workload that would occur as a result of moving the Recovery Funds claim process in house. Also included is \$3,000 each fiscal year for travel and operating expenses. The Department of Savings and Mortgage Lending would also be required to pay a \$500,000 one-time buy-in fee to the Conference of State Bank Supervisors (CSBS), \$100,000 in 2010 and \$400,000 in 2011, for use of the NMLSR. Additional technology costs include \$40,000 in 2010 and \$17,000 for each fiscal year from 2011-2015 for a contract software developer from CSBS to upgrade the current database, and \$975 in fiscal year 2010 and fiscal year 2014 for computer equipment for the new 1.0 FTE. The costs associated with the 1.0 FTE are reflected above in the new interest bearing accounts in the Texas Treasury Safekeeping Trust Company columns.

The CPA estimates increasing the \$200,000 ceiling for the private finance service company annual registration fee would have a positive effect on revenue collections. However, SML is a self-leveling agency and is statutorily required to generate revenues sufficient to cover its cost of operation. Based on this requirement, this analysis assumes the levels of other fees would be adjusted accordingly by the commissioner. In addition, the amounts for administrative penalties are unknown and cannot be estimated at this time.

According to the CPA, a loss of \$27,398,000 in General Revenue in 2010, a loss of \$27,768,000 from General Revenue in fiscal year 2011, and a loss of \$27,803,000 in General Revenue for fiscal years 2012-2014 would occur with similar fiscal implications continuing after 2014 based on the Comptroller's 2010-11 Biennial Revenue Estimate and revenue records. Under current law, revenues collected by the entities are deposited to General Revenue Fund. Under the provisions of the bill, revenue collection deposits and expenditures from the identified agencies would change from the General Revenue Fund to new interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. For the purpose of this analysis, the revenue and cost implications of the bill for DOB, SML, OCCC, and CUD are consolidated in the table above.

In addition, there would be a \$15,809,000 total cost to General Revenue in 2010 and 2011 for an appropriation made to the financial agencies to establish itself as a self-directed and semi-independent agency. It is assumed that the agencies would repay the appropriation made within the fiscal year in which the appropriations were made. The offset in revenue from repayment is reflected above in the table.

This analysis assumes that duties and responsibilities associated with implementing the provisions of the bill for the OCCC, DOB, CUD, SAO and Attorney General could be accomplished by utilizing existing resources.

Technology

The bill would require a new computer and software for an additional 1.0 FTE, 1 database upgrade, and a contract developer for an initial total cost of \$40,975 in fiscal year 2010 and \$17,000 in fiscal years 2011-2015, with an additional \$975 in fiscal year 2014 for computer replacement. These costs would be paid out of the new interest bearing accounts in the Texas Treasury Safekeeping Trust Company.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner, 469 Credit Union Department

LBB Staff: JOB, MN, JRO, MW, ACa