SUBJECT: Replacing public securities with state financing for catastrophe losses

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Dean, Vo, J. González, Goodwin, Hopper, Morgan, Paul, Spiller, Wharton

0 nays

WITNESSES: For — Scot Kibbe, American Property Casualty Insurance Association (APCIA); Ryan Skrobarczyk, City of Corpus Christi; Sally Bakko, City of Galveston; Sharon OConnor, Coastal Windstorm Insurance Coalition; Albert Betts, Insurance Council of Texas; Trey Summers, Texas Association of Builders; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Charles Zahn Jr, Texas Coastal Windstorm Coalition; Ware Wendell, Texas Watch; Amy Granberry, United Corpus Christi Chamber of Commerce (*Registered, but did not testify*: Michael Dole, Driscoll Health System; Jay Thompson, Ict, talhi; Regan Ellmer, Independent Insurance Agents of Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Ward Tisdale, National Association of Mutual Insurance Companies; Joel Romo, Nueces County & City of Port Aransas; Trace Finley, Port of Corpus Christi Authority; M. Scott Norman, Jr., Texas Association of Builders; Kolton McDougald, Texas Chemistry Council; Julia Parenteau, Texas Realtors; Kevin Matula, Nzingha Williams-Eugene, USAA; Jay Brown, Valero Energy Corporation; Chance Sampson)

Against — None

On — David Durden, Texas Windstorm Insurance Association (*Registered, but did not testify*: Kimberly Edwards, Comptroller of Public Accounts; Elisabeth Ret, Jamie Walker, Texas Department of Insurance; Whitney Blanton, Texas Treasury Safekeeping Trust Company)

BACKGROUND: Concerns have been raised that the Texas Windstorm Insurance Association (TWIA) has traditionally funded excess losses and operating expenses through public securities, which can be costly and inefficient due to high interest and issuance expenses. Some have suggested that replacing public securities with state-funded financing and introducing catastrophe surcharges could help reduce TWIA's long-term financial burdens, ensure timely repayment of state loans, and enhance TWIA's capacity to cover losses from disasters.

DIGEST: HB 3689 would replace Texas Windstorm Insurance Association (TWIA) provisions regarding payments of losses with provisions to provide for funding of excess losses and operating expenses of TWIA incurred after December 31, 2025.

State-funded financing. TWIA would be prohibited from paying insured losses and operating expenses from catastrophes with premium and other revenue earned in a subsequent year. TWIA would be required to pay such insured losses and operating expenses in excess of premiums and other revenue for that catastrophe year from TWIA reserves and Catastrophe Reserve Trust Fund amounts available before or accrued during that catastrophe year. For insured losses and operating expenses for a catastrophe year not paid as such, TWIA would be required to arrange for financing of not more than $1 billion through financing arrangements entered into with the state.

Each year, the commissioner of the Texas Department of Insurance would be required to provide a written report to the governor, lieutenant governor, and speaker of the House of Representatives that included the amount available in the Trust Fund and information regarding TWIA's current financial condition. The bill would authorize TWIA to include the amounts held in the Catastrophe Reserve Trust Fund as an admitted asset in its financial statements. The Texas Treasury Safekeeping Trust Company and its board of directors could recommend investments to protect the trust fund and create investment income.

TWIA could enter into a financing arrangement with this state before a catastrophic event, for not more than $500 million, and after a catastrophic event that depleted the Catastrophe Reserve Fund, for not more than $1 billion. The amount available after a catastrophic event would be reduced by the amount of outstanding pre-event or post-event financing.

The comptroller would be required to invest state money securely to provide financing for losses and collect repayment from catastrophe surcharges. If the terms of a financing arrangement included interest, the interest rate could not exceed the sum of two percent and the lesser of the rate set by the Federal Loan Bank Board or the federal funds interest rate. The comptroller could use the Economic Stabilization Fund balance to finance under the bill.

Surcharges. Insured losses and operating expenses for a catastrophe year not paid as described would have to be paid from member assessments, not to exceed $1 billion for that catastrophe year, nor the amount needed to repay the debt obligation to the state. A TWIA member could not recoup a paid assessment through a premium surcharge or tax credit.

The insurance commissioner, in consultation with the board of directors, would be required to set the catastrophe surcharge as a percentage of premium to be collected by certain insurers and could order a catastrophe surcharge sufficient to repay the debt obligation to the state under the financing arrangement only if:

- before a catastrophic event, TWIA had entered into a financing arrangement with this state that was the basis for the surcharge; or
- after a catastrophic event, the commissioner determined that TWIA had depleted its reserves, other money, and the Catastrophe Reserve Trust Fund, and TWIA had entered into a financing arrangement with the state that was the basis for the surcharge.

A debt obligation entered into under the bill could not exceed 36 months to maturity.

An authorized catastrophe surcharge would have to be assessed by certain insurers on all policyholders of applicable policies. Failure by a policyholder to pay a catastrophe surcharge would constitute failure to pay the premium for purposes of policy cancellation. A catastrophe surcharge would not be refundable if the policy were canceled or terminated.

Each policy assessed a surcharge would have to contain a prominent disclosure explaining the purpose and non-refundability of the surcharge in the documents attached to the policy.

A collected surcharge would be exempt from state or local taxation. No entity directly affected by the bill would be personally liable as a result of exercising the rights and responsibilities granted under the bill. An insurer could not collect a surcharge on any policy issued to this state, a state agency, or a political subdivision.

Reinsurance. Before any occurrences, a TWIA member could purchase reinsurance to cover an assessment for which the member would otherwise be liable. If a member opted to purchase reinsurance, they would be required to notify the board of directors.

The bill would remove requirements related to reinsurance for TWIA and permit TWIA to obtain reinsurance at any level to protect its solvency and viability. Any methods adopted by the Insurance Commissioner to do so would have to be provided to TWIA on or before February 1 of each year.

General provisions. Effective September 1, 2027, the bill would repeal certain TWIA provisions and make conforming changes to reflect that the existing statute would apply only to payment of losses and operating expenses incurred by TWIA before January 1, 2026.

To provide for a reasonable transition, TWIA could issue public securities or enter into financing arrangements with this state if it needed to provide funds for excess losses and operating expenses incurred before January 1, 2026.

As soon as practicable after the effective date of the bill and by December 1, 2025, the insurance commissioner would be required to adopt rules necessary to implement certain provisions of the bill.

The bill would take effect September 1, 2025.

NOTES: According to the Legislative Budget Board, the fiscal impact of HB 3689 to the state cannot be determined, as the amount of “rainy day” funds that would be used to repay excess TWIA losses would be dependent on the severity and timing of coastal area catastrophes.