

BILL ANALYSIS

Senate Research Center

S.B. 1436
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Intergovernmental Relations
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas' current efforts at the state level inadequately facilitate local communities' participation in the National Flood Insurance Program, inhibiting access to the lower flood insurance premiums available through the Federal Emergency Management Agency's (FEMA) Community Rating System. Also, the state has been unable to fully engage FEMA regarding the conduct of floodplain mapping and studies based on river basin geography. The state's growing population and associated development increase the danger to life and property of flooding. Sound mapping data will reduce the likelihood of building in an area at risk of flooding.

S.B. 1436 transfers responsibility for state administration, coordination, and management of local participation in the National Flood Insurance Program from the Texas Commission on Environmental Quality to the Texas Water Development Board (TWDB). The bill also directs 50 percent of revenue to a new floodplain management account. And the bill authorizes the board of regents of The Texas A&M University (A&M) System to establish a spatial reference center at A&M--Corpus Christi.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of regents of The Texas A&M University System in SECTION 13 (Section 88.503, Education Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Environmental Quality (TCEQ) is transferred to the Texas Water Development Board (TWDB) in SECTION 9 (Section 16.318, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 251.004, Insurance Code, as follows:

Sec. 251.004. DEPOSIT OF MAINTENANCE TAXES. (a) Provides an exception as provided by Subsection (b).

(b) Requires the comptroller of public accounts, each state fiscal year, to reallocate to the floodplain management account established under Section 16.3161, Water Code, the first \$3.05 million of the maintenance taxes collected under Chapter 252 (Fire and Allied Lines Insurance) and deposited in the general revenue fund.

SECTION 2. Amends Section 5.013(a), Water Code, to delete existing text providing that TCEQ has general jurisdiction over the administration of the national flood insurance program. Makes a conforming change.

SECTION 3. Amends Section 6.012(a), Water Code, to provide that the Texas Water Development Board (TWDB) has general jurisdiction over the implementation of a statewide water plan and the administration of the National Flood Insurance Program(program).

SECTION 4. Amends Section 16.314, Water Code, as follows:

Sec. 16.314. New heading: COOPERATION OF BOARD. Requires TWDB, rather than TCEQ, to take certain actions under this section relating to cooperating with the Federal Emergency Management Agency (FEMA) to carry out the program.

SECTION 5. Amends Section 16.315, Water Code, to authorize all political subdivisions to take all necessary and reasonable actions that are not less stringent than the requirements and criteria of the National Flood Insurance Program, including but not limited to certain actions set forth in this subsection, to include providing for the imposition of penalties on landowners who violate this subchapter (Flood Insurance) or rules adopted or orders issued under this subchapter. Makes conforming changes.

SECTION 6. Amends Section 16.316, Water Code, as follows:

Sec. 16.316. New heading: COORDINATION OF LOCAL, STATE, AND FEDERAL PROGRAMS BY BOARD. (a) Makes a conforming change.

(b) Makes conforming changes.

(c) Authorizes aid under this section to include but is not necessarily limited to encouraging FEMA to evaluate flood-prone areas by river basin and river system; coordinating the use of federal, state, and local grant money; making floodplain maps and floodplain information accessible to the public, including in an electronic format through TWDB's Internet website; and maintaining at least one staff member in each of the board's field offices to encourage participation in the National Flood Insurance Program by performing education and outreach and coordinating the efforts of political subdivisions.

(d) Makes a conforming change.

SECTION 7. Amends Subchapter I, Chapter 16, Water Code, by adding Section 16.3161, as follows:

Sec. 16.3161. FLOODPLAIN MANAGEMENT ACCOUNT. (a) Provides that the floodplain management account is a special fund in the state treasury outside the general revenue fund. Sets forth the composition of the fund.

(b) Requires the account to be administered by TWDB in accordance with this section.

(c) Authorizes TWDB to use the account to fund the performance of TWDB's functions under Section 16.316 (Coordination of Local, State, and Federal Programs by the Commission).

(d) Authorizes TWDB to invest, reinvest, and direct the investment of any available money in the account as provided by law for the investment of money under Section 404.024 (Authorized Investments), Government Code.

SECTION 8. Amends Section 16.317, Water Code, to make a conforming change.

SECTION 9. Amends Section 16.318, Water Code, as follows:

Sec. 16.318. RULES. Authorizes the Texas Department of Insurance, and the TWDB, rather than TCEQ, to adopt and promulgate reasonable rules which are necessary for the orderly effectuation of the respective authorizations relating to political subdivisions which qualify for the National Flood Insurance Program.

SECTION 9A. Amends Section 16.319, Water Code, to make a conforming change.

SECTION 10. (a) Provides that certain powers, procedures, proceedings, and responsibilities are transferred from TCEQ to TWDB not later than January 1, 2008.

(b) Provides that the transfer of the powers and duties of TCEQ that relate primarily to the administration of the National Flood Insurance Program to TWDB does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition made, any liability incurred, a permit or license issued, a penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with TCEQ.

SECTION 11. Amends Sections 16.315 and 16.319, Water Code, to make conforming changes.

SECTION 12. (a) Effective date: September 1, 2007, except as otherwise provided by this section.

(b) Effective date, Sections 1-10 of this Act: September 1, 2007, contingent upon the 80th Legislature appropriating at least \$6.1 million to TWDB for the state fiscal biennium beginning September 1, 2007, specifically for the purpose of administering the National Flood Insurance Program. Provides that Sections 1-10 of this Act have no effect if before that date, the 80th Legislature does not appropriate at least that amount to TWDB for that state fiscal biennium specifically for that purpose.

(c) Provides that Section 11 of this Act has no effect if Sections 1 through 10 of this Act take effect.

SECTION 13. Subchapter E, Chapter 88, Education Code, is amended by adding Section 88.503 to read as follows:

Sec. 88.503. SPATIAL REFERENCE CENTER. (a) Authorizes the board of regents of The Texas A&M University System (board) to create and operate a spatial reference center (center) at Texas A&M University--Corpus Christi for certain purposes set forth in this subsection.

(b) Requires the board to adopt rules relating to the operation of the center.

(c) Authorizes the center to solicit and accept gifts, grants, and appropriations for the purposes of this section.

SECTION 14. Effective date: September 1, 2007, contingent upon the 80th Legislature appropriating at least \$6.1 million to the Texas Water Development Board for the state fiscal biennium beginning September 1, 2007, specifically for the purpose of administering the National Flood Insurance Program.