

Amend CSSB 7 (house committee printing) by striking all below the enacting clause and substituting the following:

ARTICLE 1. FLOOD CONTROL PLANNING

SECTION 1.01. The heading to Section 15.405, Water Code, is amended to read as follows:

Sec. 15.405. FLOOD CONTROL PLANNING CONTRACTS.

SECTION 1.02. Section 15.405, Water Code, is amended by amending Subsections (a), (f), and (g) and adding Subsection (a-1) to read as follows:

(a) In this section, "flood control planning" means any work related to:

(1) planning for flood protection;

(2) preparing applications for and obtaining regulatory approvals at the local, state, or federal level;

(3) activities associated with administrative or legal proceedings by regulatory agencies; and

(4) preparing engineering plans and specifications to provide structural or nonstructural flood mitigation and drainage.

(a-1) The board may enter into contracts with political subdivisions to pay from the research and planning fund all or part of the cost of [~~developing~~] flood control planning [~~plans~~] for the political subdivision.

(f) The board shall adopt rules establishing criteria of eligibility for flood control planning money that considers:

(1) the relative need of the political subdivision for the money, giving greater importance to a county that has a median household income that is not greater than 85 percent of the median state household income;

(2) the legal authority of the political subdivision to plan for and control flooding; and

(3) the effect of flood control planning by the political subdivision on overall flood control in the state and within the area in which the political subdivision is located.

(g) The board shall require that flood control planning documents [~~plans~~] developed under contracts entered into under this section be made available to the commission.

ARTICLE 2. FLOOD INFRASTRUCTURE FUND

SECTION 2.01. Chapter 15, Water Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. FLOOD INFRASTRUCTURE FUND

Sec. 15.531. DEFINITIONS. In this subchapter:

(1) "Eligible political subdivision" means a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a municipality, or a county.

(2) "Flood project" means a drainage, flood mitigation, or flood control project, including:

(A) planning and design activities;

(B) work to obtain regulatory approval to provide nonstructural and structural flood mitigation and drainage;

(C) construction of structural flood mitigation and drainage infrastructure; and

(D) construction and implementation of nonstructural projects, including projects that use nature-based features to protect, mitigate, or reduce flood risk.

(3) "Infrastructure fund" means the flood infrastructure fund.

(4) "Metropolitan statistical area" means an area so designated by the United States Office of Management and Budget.

Sec. 15.532. FINDINGS. The legislature finds that:

(1) the creation of the infrastructure fund and the administration of the fund by the board will encourage the development of nonstructural and structural flood mitigation in the state;

(2) the use of the infrastructure fund is in furtherance of the public purpose of mitigating the effects of flooding in the state; and

(3) the use of the infrastructure fund for the purposes provided by this subchapter is for the benefit of both the state and the political subdivisions to which the board makes financial assistance available in accordance with this subchapter and constitutes a program under Sections 49-d-3 and 52-a, Article III, Texas Constitution.

Sec. 15.533. FLOOD INFRASTRUCTURE FUND. (a) The flood infrastructure fund is a special fund in the state treasury outside

the general revenue fund.

(b) The infrastructure fund may be used by the board, without further legislative appropriation, only as provided by this subchapter.

(c) The infrastructure fund consists of:

(1) appropriations from the legislature for a purpose of the infrastructure fund;

(2) proceeds of general obligation bonds issued for a purpose of the infrastructure fund;

(3) any fees or other sources of revenue that the legislature dedicates for deposit to the infrastructure fund;

(4) repayments of loans made from the infrastructure fund;

(5) interest earned on money credited to the infrastructure fund;

(6) depository interest allocable to the infrastructure fund;

(7) money from gifts, grants, or donations to the infrastructure fund; and

(8) money from revenue bonds or other sources designated by the board for deposit to the infrastructure fund.

Sec. 15.534. USE OF INFRASTRUCTURE FUND. (a) The board may use the infrastructure fund only:

(1) to make a loan to an eligible political subdivision at or below market interest rates for a flood project;

(2) to make a grant, low interest loan, or zero interest loan to an eligible political subdivision for:

(A) a flood project to serve an area outside of a metropolitan statistical area in order to ensure that the flood project is implemented; or

(B) a flood project to serve an economically distressed area;

(3) to make a loan at or below market interest rates for planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities with respect to a flood project;

(4) to make a grant to an eligible political

subdivision to provide matching funds to enable the eligible political subdivision to participate in a federal program for a flood project;

(5) as a source of revenue or security for the payment of principal and interest on bonds issued by the board if the proceeds of the sale of the bonds will be deposited in the infrastructure fund; and

(6) to pay the necessary and reasonable expenses of the board in administering the infrastructure fund.

(b) Principal and interest payments on loans made under Subsection (a)(3) may be deferred for not more than 10 years or until construction of the flood project is completed, whichever is earlier.

Sec. 15.535. APPLICATION REQUIREMENTS. (a) Except as provided by Subsection (c), an eligible political subdivision applying for financial assistance under this subchapter for a proposed flood project must demonstrate in the application that:

(1) the eligible political subdivision has acted cooperatively with other political subdivisions to address flood control needs in the area in which the eligible political subdivisions are located;

(2) all eligible political subdivisions substantially affected by the proposed flood project have participated in the process of developing the proposed flood project;

(3) the eligible political subdivisions, separately or in cooperation, have held public meetings to accept comment on proposed flood projects from interested parties; and

(4) the technical requirements for the proposed flood project have been completed and compared against any other potential flood projects in the same area.

(b) The application must include an analysis of whether the proposed flood project could use floodwater capture techniques for water supply purposes, including floodwater harvesting, detention or retention basins, or other methods of capturing storm flow or unappropriated flood flow.

(c) An eligible political subdivision applying for assistance under Section 15.534(a)(3) is not required to make the

demonstration described by Subsection (a)(4) of this section.

Sec. 15.536. APPROVAL OF APPLICATIONS. On review and recommendation by the executive administrator, the board may approve an application only if the board finds that:

(1) the application and the assistance applied for meet the requirements of this subchapter and board rules;

(2) the application demonstrates a sufficient level of cooperation among eligible political subdivisions and includes all of the eligible political subdivisions substantially affected by the flood project; and

(3) the taxes or other revenue, or both the taxes and other revenue, pledged by the applicant will be sufficient to meet all the obligations assumed by the eligible political subdivision.

Sec. 15.537. RULES. The board shall adopt rules necessary to carry out this subchapter, including rules:

(1) that establish procedures for an application for and for the award of financial assistance;

(2) for the investment of money; and

(3) for the administration of the infrastructure fund.

Sec. 15.538. INFORMATION CLEARINGHOUSE. The board shall act as a clearinghouse for information about state and federal flood planning, mitigation, and control programs that may serve as a source of funding for flood projects.

Sec. 15.539. LIABILITY. Participation in cooperative flood planning to obtain money under this subchapter does not subject an eligible political subdivision to civil liability in regard to a flood project.

SECTION 2.02. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.239 to read as follows:

Sec. 49.239. COOPERATIVE FLOOD CONTROL. A district, including a river authority, may participate in cooperative flood control planning for the purpose of obtaining financial assistance as an eligible political subdivision for a flood control project under Subchapter I, Chapter 15.

SECTION 2.03. Contingent on legislation of the 86th Legislature, Regular Session, 2019, that requires the creation of a state flood plan passing and becoming law, on the date that the

Texas Water Development Board adopts the initial state flood plan in accordance with that law:

(1) Section 15.534, Water Code, as added by this Act, expires; and

(2) Subchapter I, Chapter 15, Water Code, is amended by adding Section 15.5341 to read as follows:

Sec. 15.5341. USE OF INFRASTRUCTURE FUND. (a) The board may use the infrastructure fund only to provide financing for flood projects included in the state flood plan.

(b) Money from the infrastructure fund may be awarded to several eligible political subdivisions for a single flood project.

### ARTICLE 3. TEXAS INFRASTRUCTURE RESILIENCY FUND

SECTION 3.01. Chapter 16, Water Code, is amended by adding Subchapter L to read as follows:

#### SUBCHAPTER L. FLOOD PROJECT FUNDING

Sec. 16.451. DEFINITIONS. In this subchapter:

(1) "Advisory committee" means the Texas Infrastructure Resiliency Fund Advisory Committee.

(2) "Eligible political subdivision" means a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a municipality, or a county.

(3) "Flood project" means a drainage, flood mitigation, or flood control project, including:

(A) planning and design activities;

(B) work to obtain regulatory approval to provide structural and nonstructural flood mitigation and drainage;

(C) construction of structural flood mitigation and drainage infrastructure;

(D) nonstructural or natural flood control strategies; and

(E) a federally authorized project to deepen a ship channel affected by a flooding event.

(4) "Resiliency fund" means the Texas infrastructure resiliency fund.

Sec. 16.452. TEXAS INFRASTRUCTURE RESILIENCY FUND. (a) The Texas infrastructure resiliency fund is a special fund in the state treasury outside the general revenue fund.

(b) The resiliency fund shall be administered by the board in accordance with this subchapter.

(c) The board may invest, reinvest, and direct the investment of any available money in the resiliency fund as provided by law for the investment of public funds.

(d) Investment earnings, interest earned on amounts credited to the resiliency fund, and interest earned on loans made from the fund shall be deposited to the credit of the fund.

Sec. 16.453. FLOODPLAIN MANAGEMENT ACCOUNT. (a) The floodplain management account is an account of the resiliency fund.

(b) The account consists of:

(1) money deposited to the credit of the account under Section 251.004, Insurance Code;

(2) money directly appropriated to the board; and

(3) money from gifts or grants from the United States government, local or regional governments, private sources, or other sources.

(c) The board may use the account to provide financing for activities related to:

(1) the collection and analysis of flood-related information;

(2) flood planning, protection, mitigation, or adaptation;

(3) the provision of flood-related information to the public through educational or outreach programs; or

(4) evaluating the response to and mitigation of flood incidents affecting residential property, including multifamily units, located in floodplains.

Sec. 16.454. HURRICANE HARVEY ACCOUNT. (a) The Hurricane Harvey account is an account in the resiliency fund.

(b) The board may use the account only to provide financing for flood projects related to Hurricane Harvey. Financing under this section includes making a:

(1) grant, low-interest loan, or zero-interest loan to an eligible political subdivision to provide nonfederal matching funds to enable the subdivision to participate in a federal program for the development of a:

(A) hazard mitigation project, under guidelines issued by the Federal Emergency Management Agency or the Texas Division of Emergency Management or the successor in function to those entities; or

(B) public assistance project, under guidelines issued by the Federal Emergency Management Agency or the Texas Division of Emergency Management or the successor in function to those entities; and

(2) loan to an eligible political subdivision at or below market interest rates for the political subdivision's planning or design costs, permitting costs, or other costs associated with state or federal regulatory activities with respect to a flood project.

(c) A grant or loan awarded under this section:

(1) may be awarded only after the applicant demonstrates that any available insurance, other state funds, and eligible federal funds have been exhausted and that Community Development Block Grant Disaster Recovery funds from the United States Department of Housing and Urban Development have been applied toward the cost of eligible matching funds; and

(2) may not provide more than 75 percent of the portion of the cost of the project that is paid with money other than money from a federal program.

(d) In collaboration with the Texas Division of Emergency Management, the board shall establish a point system for prioritizing flood projects for which money from the Hurricane Harvey account is sought. The system must include:

(1) a standard for the board to apply in determining whether a flood project qualifies for funding at the time the application for funding is filed with the board; and

(2) a method to account for the relative need of the political subdivision for the funding.

(e) The board shall give the highest consideration in awarding points to a flood project that will have a substantial effect, including a flood project that:

(1) is recommended or approved by the director of the Texas Division of Emergency Management or the successor in function



to that entity; and

(2) meets an emergency need in a county where the governor has declared a state of disaster.

(f) After review and recommendation by the executive administrator and with input from the director of the Texas Division of Emergency Management or the successor in function to that entity, the board may approve an application for financial assistance under this section only if the board finds that:

(1) the application and assistance applied for meet the requirements of this subchapter and board rules;

(2) the application demonstrates a sufficient level of cooperation among applicable political subdivisions and includes all of the political subdivisions substantially affected by the flood project; and

(3) the taxes or other revenue, or both the taxes and other revenue, pledged by the applicant, if applicable, will be sufficient to meet all the obligations assumed by the applicant.

(g) Principal and interest payments on loans made under Subsection (b)(2) may be deferred for not more than 10 years or until construction of the flood project is completed, whichever is the shorter period.

(h) Money from the account may be awarded to several eligible political subdivisions for a single flood project.

(i) An eligible political subdivision that receives a grant for a flood project also may receive a loan from the account.

(j) This section expires September 1, 2031. The remaining balance of the account on that date is transferred to the flood plan implementation account.

Sec. 16.455. FEDERAL MATCHING ACCOUNT. (a) The federal matching account is an account in the resiliency fund.

(b) The board may use the account only to meet matching requirements for projects funded partially by federal money, including projects funded by the United States Army Corps of Engineers.

(c) The board may use the account to make a loan to an eligible political subdivision below market interest rates and under flexible repayment terms, including a line of credit or loan

obligation with early prepayment terms, to provide financing for the local share of a federally authorized ship channel improvement project.

Sec. 16.456. TEXAS INFRASTRUCTURE RESILIENCY FUND ADVISORY COMMITTEE. (a) The Texas Infrastructure Resiliency Fund Advisory Committee is composed of the seven members that serve on the State Water Implementation Fund for Texas Advisory Committee described by Section 15.438, with the co-presiding officers of that committee serving as presiding officers of the advisory committee. The director of the Texas Division of Emergency Management or the successor in function to that entity serves as a nonvoting member of the advisory committee, as an additional duty of the director's office.

(b) The advisory committee may hold public hearings, formal meetings, or work sessions. Either co-presiding officer of the advisory committee may call a public hearing, formal meeting, or work session of the advisory committee at any time. The advisory committee may not take formal action at a public hearing, formal meeting, or work session unless a quorum of the committee is present.

(c) Except as otherwise provided by this subsection, a member of the advisory committee is not entitled to receive compensation for service on the committee or reimbursement for expenses incurred in the performance of official duties as a member of the committee. Service on the advisory committee by a member of the senate or house of representatives is considered legislative service for which the member is entitled to reimbursement and other benefits in the same manner and to the same extent as for other legislative service.

(d) The advisory committee may submit comments and recommendations to the board regarding the use of money in the resiliency fund and for use by the board in adopting rules.

(e) The advisory committee shall review the overall operation, function, and structure of the resiliency fund at least semiannually and may provide comments and recommendations to the board on any matter.

(f) The advisory committee may adopt rules, procedures, and

policies as needed to administer this section and implement its responsibilities.

(g) The advisory committee shall make recommendations to the board regarding information on the resiliency fund to be posted on the board's Internet website.

(h) The advisory committee may evaluate and may provide comments or recommendations on the feasibility of the state owning, constructing, operating, and maintaining flood projects, including reservoirs and coastal barriers.

(i) The board shall provide an annual report to the advisory committee on:

(1) the board's compliance with statewide annual goals relating to historically underutilized businesses; and

(2) the participation level of historically underutilized businesses in flood projects that receive money from the resiliency fund.

(j) If the aggregate level of participation by historically underutilized businesses in flood projects that receive money from the resiliency fund does not meet statewide annual goals adopted under Chapter 2161, Government Code, the advisory committee shall make recommendations to the board to improve the participation level.

(k) The board shall supply staff support to the advisory committee.

(l) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

Sec. 16.457. REPORT REQUIRED. (a) In this section, "state agency" means:

(1) a department, commission, board, office, or other agency in the executive branch of state government created by the state constitution or a state statute; and

(2) a general academic teaching institution as defined by Section 61.003, Education Code.

(b) A state agency that uses or disburses federal money for flood research, planning, or mitigation projects shall submit a report to the board on a quarterly basis.

(c) The report must include the following information about

federal money used or disbursed for flood research, planning, or mitigation projects:

(1) the original total of federal money received;

(2) the amount of the federal money spent or disbursed to date; and

(3) the eligibility requirements for receiving the federal money.

Sec. 16.458. APPLICABLE LAW. Subchapter E, Chapter 17, applies to financial assistance made available from the resiliency fund, except that the board may execute contracts as necessary to evidence grant agreements.

Sec. 16.459. TRANSPARENCY REQUIREMENTS. The board shall post the following information on the board's Internet website regarding the use of the resiliency fund and regularly update the information posted:

(1) the progress made in developing flood projects statewide;

(2) a description of each flood project that receives money from the resiliency fund, including:

(A) the expected date of completion of the flood project;

(B) the current status of the flood project;

(C) the proposed benefit of the flood project;

(D) the initial total cost estimate of the flood project and variances to the initial cost estimate exceeding five percent;

(E) a listing of the eligible political subdivisions receiving money from the resiliency fund;

(F) a listing of each political subdivision served by each flood project;

(G) an estimate of matching funds that will be available for the flood project resulting from the use of the resiliency fund; and

(H) the status of repayment of each loan provided in connection with a flood project, including an assessment of the risk of default based on a standard risk rating system;

(3) a description of the point system for prioritizing

flood projects and the number of points awarded by the board for each flood project;

(4) any nonconfidential information submitted to the board as part of an application for funding under this subchapter that is approved by the board;

(5) the administrative and operating expenses incurred by the board in administering the resiliency fund; and

(6) any other information required by board rule.

Sec. 16.460. RULES. The board shall adopt rules necessary to carry out this subchapter, including rules:

(1) that establish procedures for an application for and for the award of financial assistance;

(2) that establish the prioritization system for flood projects that receive money from the resiliency fund;

(3) for the repayment of a loan from the resiliency fund; and

(4) for the administration of the resiliency fund.

SECTION 3.02. Section 251.004(b), Insurance Code, is amended to read as follows:

(b) Each state fiscal year, the comptroller shall reallocate to the floodplain management account established under Section 16.453 [~~16.3161~~], Water Code, the first \$3.05 million of the maintenance taxes collected under Chapter 252 and deposited in the general revenue fund.

SECTION 3.03. Section 16.3161, Water Code, is repealed.

SECTION 3.04. On the effective date of this Act, the Floodplain Management Account No. 0330 is transferred to the Texas infrastructure resiliency fund as an account of that fund and the balance of the Floodplain Management Account No. 0330 is transferred to the floodplain management account of the Texas infrastructure resiliency fund.

SECTION 3.05. (a) Not later than the 90th day after the effective date of this Act, the Texas Infrastructure Resiliency Fund Advisory Committee shall submit recommendations to the Texas Water Development Board on the rules to be adopted by the board under Section 16.460, Water Code, as added by this Act.

(b) Not later than the 90th day after the date the Texas

Water Development Board receives the recommendations described by Subsection (a) of this section, the board shall adopt rules under Section 16.460, Water Code, as added by this Act.

SECTION 3.06. Contingent on legislation of the 86th Legislature, Regular Session, 2019, that requires the creation of a state flood plan passing and becoming law, on the date that the Texas Water Development Board adopts the initial state flood plan in accordance with that law, Subchapter L, Chapter 16, Water Code, as added by this Act, is amended by adding Section 16.4545 to read as follows:

Sec. 16.4545. FLOOD PLAN IMPLEMENTATION ACCOUNT. (a) The flood plan implementation account is an account in the resiliency fund.

(b) The board may use the account only to provide financing for projects included in the state flood plan.

(c) Money from the account may be awarded to several eligible political subdivisions for a single flood project.

#### ARTICLE 4. REVENUE BONDS

SECTION 4.01. Section 17.852(5), Water Code, is amended to read as follows:

(5) "Project" includes water supply projects, treatment works, and flood [~~control~~] projects, as defined by Section 15.531 or 16.451.

SECTION 4.02. Section 17.853(c), Water Code, is amended to read as follows:

(c) The board may use the fund only:

(1) to provide state matching funds for federal funds provided to the state water pollution control revolving fund or to any additional state revolving fund created under Subchapter J, Chapter 15;

(2) to provide financial assistance from the proceeds of taxable bond issues to water supply corporations organized under Chapter 67, and other participants;

(3) to provide financial assistance to participants for the construction of water supply projects and treatment works;

(4) to provide financial assistance for an interim construction period to participants for projects for which the

board will provide long-term financing through the water development fund;

(5) to provide financial assistance for water supply and sewer service projects in economically distressed areas as provided by Subchapter K, Chapter 17, to the extent the board can make that assistance without adversely affecting the current or future integrity of the fund or of any other financial assistance program of the board;

(6) to provide funds to the water infrastructure fund created under Section 15.973; ~~and~~

(7) to provide funds to the state water implementation revenue fund for Texas;

(8) to provide funds to the flood infrastructure fund created under Section 15.533; and

(9) to provide funds to the Texas infrastructure resiliency fund created under Section 16.452.

#### ARTICLE 5. EFFECTIVE DATE

SECTION 5.01. This Act takes effect January 1, 2020, but only if the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019, authorizing the legislature to provide for the creation of the flood infrastructure fund to assist in the financing of drainage, flood mitigation, and flood control projects is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.