

BILL ANALYSIS

C.S.H.B. 274
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Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Studies indicate that the frequency, severity, and cost of natural disasters to impact Texas will only continue to increase with time. Although the federal government provides funding for disaster mitigation and recovery efforts, the amount and timeline for disbursing these funds can be highly unpredictable. In an effort to provide for sustainable coordination and funding of disaster recovery and mitigation efforts for the state's political subdivisions in an expedited manner, C.S.H.B. 274 establishes the disaster reinvestment and infrastructure planning revolving fund.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the disaster reinvestment and infrastructure planning board in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 274 amends the Water Code to create the disaster reinvestment and infrastructure planning revolving fund as a special fund outside the state treasury to be used without further legislative appropriation for the purpose of providing financial assistance to political subdivisions in response to a disaster. The bill sets out the fund's composition and establishes the disaster reinvestment and infrastructure planning board to administer the fund, determine the eligibility of applicants for financial assistance from the fund, and award grants and loans from the fund. The board is administratively attached to the Texas Water Development Board (TWDB). The bill sets out the composition of the board and provides for its administration and operation. The bill provides for the appointment of initial board members and for the staggering of board member terms.

C.S.H.B. 274 authorizes the board to establish separate accounts in the fund. The bill establishes that the fund and the fund's accounts are kept and held by the Texas Treasury Safekeeping Trust Company in escrow and in trust for and in the name of the board and grants the board legal title to money and investments in the fund until money is disbursed from the fund as provided by the bill's provisions and board rules. The bill establishes that money deposited to the credit of the fund may be used only as provided by the bill's provisions. The bill provides for the manner in which the trust company is to manage and invest the fund and requires the trust company to disburse money from the fund as directed by the board.

C.S.H.B. 274 requires the board to establish by rule a revolving loan and grant program to use money from the fund to provide financial assistance for a public infrastructure project to rebuild

infrastructure damaged or destroyed in a disaster or construct infrastructure to mitigate damage from a disaster. The bill sets out the authorized forms of financial assistance the board may provide from the fund, which are:

- a loan to a political subdivision that is located wholly or partly in an area declared by the governor to be a disaster area and that FEMA has determined is eligible to receive financial assistance from the agency in response to the disaster;
- a loan or grant to a political subdivision that is located wholly or partly in an area declared by the governor to be a disaster area and that FEMA has determined is not eligible to receive financial assistance from the agency in response to the disaster; or
- a loan or grant to a qualifying public or private hospital, other than an ambulatory surgical center:
 - located wholly or partly in an area declared by the governor to be a disaster area;
 - determined by federal agencies not to be eligible for assistance;
 - not eligible for private insurance assistance that is sufficient to restore the hospital to pre-disaster operating function; and
 - the closure of which would cause an imminent threat to public health in the surrounding area, as determined by the Department of State Health Services.

The bill sets out certain additional requirements and restrictions on the allocation of money from the fund and establishes that financial assistance may be provided from the fund only during the period for which the governor's disaster declaration is in effect.

C.S.H.B. 274 requires the board to develop and implement an application process for a loan or grant from the fund and sets out minimum requirements for the components of that application. The bill requires the board to adopt by rule a point system to allow the board to prioritize certain applicants based on criteria established by the bill and requires the board to provide by rule for an expedited procedure for acting on an application that does not affect an applicant's receipt of federal money to which the applicant may be eligible as a result of the disaster.

C.S.H.B. 274 sets out the required conditions for a loan made from the fund and requires the board to credit to the fund all principal and interest payments on a loan from the fund. The bill requires the board to provide by rule for interest rates on loans offered to political subdivisions to vary according to a risk analysis so that a political subdivision must pay a significantly higher interest rate than other political subdivisions if the political subdivision is, as determined by the board, likely to suffer significant additional damage in subsequent disasters.

C.S.H.B. 274 prohibits the board from making a grant to a political subdivision that has inside its jurisdiction one or more properties that have had more than one insurance claim for flood damage paid for separate incidents over a specified period of time. The bill requires the board to suspend the award of grants from the fund for the duration of a period during which the fund's balance is less than a minimum fund balance established by board rule.

C.S.H.B. 274 requires the board to prepare and submit to the governor, the lieutenant governor, and each member of the legislature a biennial report that includes certain information related to the financial state of the fund and a general description of each project for which a grant or loan was awarded and the approximate cost of each of those projects.

Contingent on the bill being approved by the requisite two-thirds majority vote, C.S.H.B. 274 appropriates \$1 billion from the economic stabilization fund (ESF) to the comptroller of public accounts for the purpose of transferring that amount immediately to the credit of the fund.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 274 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions that establish the disaster reinvestment and infrastructure planning board and provide for the appointment of board members. The substitute changes the entity tasked with administering the fund from the TWDB to the disaster reinvestment and infrastructure planning board.

The substitute increases the initial appropriation to the fund from the ESF from \$15 million to \$1 billion.

The substitute revises provisions relating to the use of money in the fund by:

- making certain public and private hospitals, other than an ambulatory surgical center, eligible for a loan or grant from the fund;
- limiting the period during which financial assistance may be provided from the fund to the period during which the governor's disaster declaration is in effect;
- prohibiting the board from providing financial assistance to rebuild or construct a privately owned structure, except with regard to a qualifying hospital;
- removing the specification that the disasters for which funds may be expended to construct infrastructure to mitigate damage are future disasters; and
- not including specific definitions of and references to "Category I qualifying political subdivision," "Category II qualifying political subdivision," and "qualifying infrastructure project."

The substitute includes provisions that do the following:

- provide for the administrative attachment of the board to the TWDB;
- provide for the management and investment of the fund by the trust company;
- require the board to provide by rule for interest rates on loans from the fund to vary according to a certain risk analysis;
- prohibit the board from making a grant to a political subdivision that has inside its jurisdiction one or more properties that have a certain history of flood insurance claims; and
- provide for the preparation and submission of a biennial report.

The substitute revises provisions relating to:

- the nature and composition of the fund;
- the conditions on loans and grants made from the fund;
- the minimum required contents of the application for a loan or grant from the fund; and
- the manner by which certain applicants for financial assistance are prioritized.