S.B. No. 8

AN ACT

relating to state and regional flood planning.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subchapter C, Chapter 16, Water Code, is amended by adding Sections 16.061 and 16.062 to read as follows:

Sec. 16.061.  STATE FLOOD PLAN. (a)  Not later than September 1, 2024, and before the end of each successive five-year period after that date, the board shall prepare and adopt a comprehensive state flood plan that incorporates the regional flood plans approved under Section 16.062. The state flood plan must:

(1)  provide for orderly preparation for and response to flood conditions to protect against the loss of life and property;

(2)  be a guide to state and local flood control policy; and

(3)  contribute to water development where possible.

(b)  The state flood plan must include:

(1)  an evaluation of the condition and adequacy of flood control infrastructure on a regional basis;

(2)  a statewide, ranked list of ongoing and proposed flood control and mitigation projects and strategies necessary to protect against the loss of life and property from flooding and a discussion of how those projects and strategies might further water development, where applicable;

(3)  an analysis of completed, ongoing, and proposed flood control projects included in previous state flood plans, including which projects received funding;

(4)  an analysis of development in the 100-year floodplain areas as defined by the Federal Emergency Management Agency; and

(5)  legislative recommendations the board considers necessary to facilitate flood control planning and project construction.

(c)  The board, in coordination with the commission, the Department of Agriculture, the General Land Office, the Parks and Wildlife Department, the Texas Division of Emergency Management, and the State Soil and Water Conservation Board, shall adopt guidance principles for the state flood plan that reflect the public interest of the entire state. The board shall review and revise the guidance principles, with input from the commission, the Department of Agriculture, the General Land Office, the Parks and Wildlife Department, the Texas Division of Emergency Management, and the State Soil and Water Conservation Board as necessary and at least every fifth year to coincide with the five-year cycle for adoption of a new state flood plan.

(d)  On adoption of a state flood plan, the board shall deliver the plan to the:

(1)  governor;

(2)  lieutenant governor;

(3)  speaker of the house of representatives; and

(4)  appropriate legislative committees and legislative leadership.

Sec. 16.062.  REGIONAL FLOOD PLANNING. (a)  The board shall:

(1)  designate flood planning regions corresponding to each river basin;

(2)  provide technical and financial assistance to the flood planning groups; and

(3)  adopt guidance principles for the regional flood plans, including procedures for amending adopted plans.

(b)  In designating flood planning regions, the board may divide river basins to avoid having an impracticably large area for efficient planning in a flood planning region.

(c)  The board shall designate representatives from each flood planning region to serve as the initial flood planning group. The initial flood planning group may then designate additional representatives to serve on the flood planning group. The initial flood planning group shall designate additional representatives if necessary to ensure adequate representation from the interests in its region, including the public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities. The flood planning group shall maintain adequate representation from those interests. In addition, the board, the commission, the General Land Office, the Parks and Wildlife Department, the Department of Agriculture, the State Soil and Water Conservation Board, and the Texas Division of Emergency Management each shall appoint a representative to serve as an ex officio member of each flood planning group.

(d)  Each regional flood planning group shall hold public meetings as provided by board rule to gather from interested persons, including members of the public and other political subdivisions located in that county, suggestions and recommendations as to issues, provisions, projects, and strategies that should be considered for inclusion in a regional flood plan.

(e)  Each flood planning group shall consider the information collected under Subsection (d) in creating a regional flood plan. A regional flood plan must:

(1)  use information based on scientific data and updated mapping; and

(2)  include:

(A)  a general description of the condition and functionality of flood control infrastructure in the flood planning region;

(B)  flood control projects under construction or in the planning stage;

(C)  information on land use changes and population growth in the flood planning region;

(D)  an identification of the areas in the flood planning region that are prone to flood and flood control solutions for those areas; and

(E)  an indication of whether a particular flood control solution:

(i)  meets an emergency need;

(ii)  uses federal money as a funding component; and

(iii)  may also serve as a water supply source.

(f)  After a flood planning group prepares a regional flood plan, the group shall hold at least one public meeting in a central location in the flood planning region to accept comments on the regional flood plan. The flood planning group shall:

(1)  cooperate with the board to determine what method of providing notice for the public meeting is most accessible to persons in the flood planning region; and

(2)  publish, post, or otherwise disseminate notice of the public meeting according to the method described by Subdivision (1).

(g)  The notice published, posted, or otherwise disseminated under Subsection (f) must contain:

(1)  the date, time, and location of the public meeting or hearing;

(2)  a summary of the regional flood plan;

(3)  the name, telephone number, and address of a person to whom questions or requests for additional information may be submitted; and

(4)  information on how the public may submit comments.

(h)  After consideration of the comments received at the public meeting, the flood planning group shall adopt the regional flood plan and submit the adopted regional flood plan to the board. The board shall make a determination whether the regional flood plan:

(1)  satisfies the requirements for regional flood plans adopted in the guidance principles described by Subsection (a);

(2)  adequately provides for the preservation of life and property and the development of water supply sources, where applicable; and

(3)  affects a neighboring area.

(i)  If the board makes a determination that an element of a regional flood plan negatively affects a neighboring area, the board must coordinate with the affected area to adjust the plan to ensure that no neighboring area is negatively affected by the plan.

(j)  The board shall approve a regional flood plan when it:

(1)  satisfies the requirements of Subsections (h)(1) and (2); and

(2)  does not negatively affect a neighboring area.

(k)  A flood planning group may amend a regional flood plan after the plan has been approved by the board according to rules adopted by the board.

(l)  Each flood planning group and committee or subcommittee of a flood planning group is subject to Chapters 551 and 552, Government Code.

SECTION 2.  Subchapter B, Chapter 201, Agriculture Code, is amended by adding Section 201.0227 to read as follows:

Sec. 201.0227.  TEN-YEAR DAM REPAIR AND MAINTENANCE PLAN; REPORTS. (a)  In this section:

(1)  "Plan" means the 10-year dam repair, rehabilitation, and maintenance plan adopted under this section.

(2)  "Water development board" means the Texas Water Development Board.

(b)  The state board shall prepare and adopt a plan describing the repair and maintenance needs of flood control dams described by Subsection (c) and prepare and adopt a new plan before the end of the 10th year following the adoption of a plan.

(c)  The plan must include projects under the jurisdiction of the state board and authorized under:

(1)  Section 13, Flood Control Act of 1944 (Pub. L. No. 78-534);

(2)  the pilot watershed program authorized under the Department of Agriculture Appropriation Act, 1954 (Pub. L. No. 83-156);

(3)  the Watershed Protection and Flood Prevention Act (Pub. L. No. 83-566); and

(4)  Subtitle H, Title XV, Agriculture and Food Act of 1981 (Pub. L. No. 97-98).

(d)  The state board shall deliver the plan adopted under this section to the water development board.

(d-1)  The water development board, in coordination with the state board and the Texas Commission on Environmental Quality, shall prepare a report of the repair and maintenance needs of all dams that:

(1)  are not licensed by the Federal Energy Regulatory Commission;

(2)  do not have flood storage;

(3)  are required to pass floodwaters; and

(4)  have failed.

(e)  Each year, the state board shall deliver to the water development board a report regarding progress made on items listed in the plan. If an update to the report or plan is necessary before the yearly report or before the end of the 10-year cycle, the state board must deliver to the water development board an amended report or plan.

SECTION 3.  (a)  In this section:

(1)  "Advisory committee" means the State Flood Plan Implementation Advisory Committee.

(2)  "Board" means the Texas Water Development Board.

(b)  The State Flood Plan Implementation Advisory Committee is composed of the following six members:

(1)  the chair of the committee of the senate having primary jurisdiction over water resources;

(2)  the chair of the committee of the house of representatives having primary jurisdiction over natural resources;

(3)  a member of the committee of the senate having primary jurisdiction over matters relating to finance, appointed by the lieutenant governor;

(4)  a member of the committee of the house of representatives having primary jurisdiction over appropriations, appointed by the speaker of the house of representatives;

(5)  a representative of the Texas Division of Emergency Management, chosen by the division; and

(6)  a representative of the State Soil and Water Conservation Board, chosen by the State Soil and Water Conservation Board.

(c)  The chair of the committee of the senate having primary jurisdiction over water resources and the chair of the committee of the house of representatives having primary jurisdiction over natural resources serve as the co-chairs of the advisory committee.

(d)  The advisory committee may hold public hearings, formal meetings, or work sessions. 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.

(e)  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.

(f)  The advisory committee shall review the overall operation, function, and structure of the state flood plan and rules adopted by the board to implement the state flood plan at least semiannually and may provide comments and recommendations to the board on any matter.

(g)  The advisory committee may adopt rules, procedures, and policies as needed to administer this section and implement its responsibilities.

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

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

(j)  This section expires and the advisory committee is dissolved on September 1, 2021.

SECTION 4.  (a)  Not later than September 1, 2021, the Texas Water Development Board shall adopt guidance principles for the regional flood plans and designate flood planning regions corresponding to each river basin as required by Section 16.062, Water Code, as added by this Act.

(b)  Not later than January 10, 2023, each flood planning group shall submit a regional flood plan to the Texas Water Development Board for the group's flood planning region, as required by Section 16.062, Water Code, as added by this Act.

SECTION 5.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_President of the Senate             Speaker of the House

I hereby certify that S.B. No. 8 passed the Senate on March 20, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 25, 2019, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 8 passed the House, with amendments, on May 22, 2019, by the following vote: Yeas 139, Nays 3, two present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor