By:  Creighton S.B. No. 695

A BILL TO BE ENTITLED

AN ACT

relating to state policies and programs that affect the funding of flood planning, mitigation, and infrastructure projects; making an appropriation.

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

SECTION 1.  The heading to Section 15.405, Water Code, is amended to read as follows:

Sec. 15.405.  FLOOD CONTROL PLANNING CONTRACTS.

SECTION 2.  Section 15.405, Water Code, is amended by amending Subsections (a) 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 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 or specifications to provide structural or nonstructural flood mitigation or 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.

(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.

SECTION 3.  Chapter 15, Water Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TEXAS INFRASTRUCTURE RESILIENCY 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 or design activities;

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

(C)  construction of structural flood mitigation or drainage infrastructure.

(3)  "Fund" means the Texas Infrastructure Resiliency Fund.

(4)  "Political subdivision bonds" means bonds or other obligations issued by a political subdivision to fund a flood project.

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

Sec. 15.532.  TEXAS INFRASTRUCTURE RESILIENCY FUND. (a)  The Texas Infrastructure Resiliency Fund is a special fund in the state treasury outside the general revenue fund to be used and administered by the board under this subchapter and under rules adopted by the board under this subchapter.

(b)  The board may establish separate accounts in the fund.

(c)  The fund consists of:

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

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

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

(4)  repayments of loans made from the fund;

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

(6)  depository interest allocable to the fund;

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

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

(9)  proceeds from the sale of political subdivision bonds or obligations held in the fund and not otherwise pledged to the discharge, repayment, or redemption of revenue bonds or other bonds, the proceeds of which were placed in the fund.

Sec. 15.533.  USE OF TEXAS INFRASTRUCTURE RESILIENCY FUND. (a)  The board may use the fund only:

(1)  to make a grant, low-interest loan, or zero-interest loan to an eligible political subdivision for a flood project;

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

(3)  to make a grant, low-interest loan, or zero-interest loan 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;

(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 the development of a hazard mitigation plan, pursuant to guidelines issued by the Federal Emergency Management Agency or by the Texas Division of Emergency Management or succeeding equivalent organization;

(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 fund;

(6)  to purchase political subdivision bonds; and

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

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

(c)  A grant made under Subsection (a)(2) may not finance more than 75 percent of the total cost of a flood project.

(d)  An eligible political subdivision may receive both a grant and a loan under this section for a flood project.

(e)  A grant or loan made under this section may be made to multiple eligible political subdivisions for a single flood project.

Sec. 15.534.  PRIORITIZATION OF PROJECTS. (a)  The board shall establish a point system for prioritizing flood projects for which money is sought from the fund. The system must include 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.

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

(1)  are approved or recommended by the director of the Texas Division of Emergency Management or succeeding equivalent organization;

(2)  are currently receiving, have been awarded, or qualify for federal funds;

(3)  meets and emergency need;

(4)  includes a substantial water supply or water management benefit;

(5)  will provide regionalization;

(6)  are included in a statewide flood plan;

(7)  the ability of the board and the applicant to timely leverage state funding with local or federal funding;

(8)  the project's cost-to-benefit ratio as calculated by board rules established in accordance with Section 15.540; and

Sec. 15.535.  REPORTING AND TRANSPARENCY REQUIREMENTS. The board shall post the following information on the board's Internet website regarding the use of the fund and regularly update the information posted:

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

(2)  a description of each project financed through money from the fund, including:

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

(B)  the current status of the project;

(C)  the proposed benefit of the project;

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

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

(F)  a listing of the political subdivision or subdivisions being served by each resilience project;

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

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

(I)  a listing and description of political subdivision bonds purchased in relation to the project, including the terms and obligations related to the purchase of the bond; and

(J)  a listing and description of political subdivision bonds sold by the board under Section 15.541, including the terms and obligations related to the sale of the bond.

(3)  a description of the point system for prioritizing projects established by the board under Section 15.535 and the number of points awarded by the board for each project;

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

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

(6)  any other information required by board rule.

Sec. 15.536.  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 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. 15.537.  APPROVAL OF APPLICATIONS. On review and recommendation by the executive administrator, with input from the director of the Texas Division of Emergency Management or the succeeding equivalent organization, 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 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. 15.538.  APPLICABLE LAW. Subchapter E, Chapter 17, applies to financial assistance made available from the fund, except that the board may execute contracts as necessary to evidence grant agreements.

Sec. 15.539.  RULES. (a)  The board shall adopt rules necessary to carry out this subchapter, including rules:

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

(2)  that establish the prioritization of flood projects that receive money from the fund;

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

(4)  for the investment of money; and

(5)  for the administration of the fund.

(b)  In establishing rules for the repayment of a loan from the fund, the terms shall include:

(1)  an amortization schedule not to exceed 30 years;

(2)  an interest rate at or below the current market rate at the time an application is approved for a loan from the fund;

(3)  no penalties for early repayment; and

(4)  except as provided by Section 15.534(b), a requirement that principal and interest payments on the loan must begin no later than 18 months after the loan is originated.

(c)  The board shall give appropriate consideration to the recommendations of the advisory committee before adopting rules under this section.

Sec. 15.540.  SALE OF POLITICAL SUBDIVISION BONDS. (a)  The board may sell or dispose of political subdivision bonds at the price and under the terms that the board determines to be reasonable.

(b)  The board may sell political subdivision bonds without making a previous offer to the eligible political subdivision that issued the bonds and without advertising, soliciting, or receiving bids for sale.

(c)  Notwithstanding other provisions of this chapter, the board may sell to the Texas Water Resources Finance Authority any political subdivision bonds purchased with money in the fund and may apply the proceeds of a sale in the manner provided by this section.

(d)  Proceeds from the sale of political subdivision bonds under this section shall be deposited in the fund for use as provided by Section 15.534.

(e)  As part of a sales agreement with the Texas Water Resources Finance Authority, the board by contract may agree to perform the functions required to ensure that the eligible political subdivision pays the debt service on political subdivision bonds sold and observes the conditions and requirements stated in those bonds.

(f)  The board may exercise any powers necessary to carry out the authority granted by this section, including the authority to contract with any person to accomplish the purposes of this section.

Sec. 15.541.  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. 15.542.  LIABILITY. Participation in cooperative flood planning to obtain money under this subchapter does not subject an eligible political subdivision to civil liability in regards to a flood project.

Sec. 15.543.  ADVISORY COMMITTEE. (a)  The Texas Infrastructure Resiliency Fund Advisory Committee is composed of the following members:

(1)  the members that serve on the State Water Implementation Fund for Texas Advisory Committee described by Section 15.438; and

(2)  the director of the Texas Division of Emergency Management or the succeeding equivalent organization.

(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 fund and for use by the board in adopting rules under Section 15.540.

(e)  The advisory committee shall review the overall operation, function, and structure of the fund at least annually 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)  Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

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

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

(j)  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 fund.

(k)  If the aggregate level of participation by historically underutilized businesses in projects that receive money from the 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.

(l)  The board shall provide staff support for the advisory committee.

SECTION 4.  Title 5, Water Code, is amended by designating Chapter 152 as Subtitle A and adding a subtitle heading to read as follows:

SUBTITLE A. RIVER AUTHORITIES

SECTION 5.  Subtitle A, Title 5, Water Code, as added by this Act, is amended by adding Chapter 150 to read as follows:

CHAPTER 150. PROVISIONS GENERALLY APPLICABLE TO RIVER AUTHORITIES

Sec. 150.0101.  DEFINITIONS. In this chapter:

(1)  "Director" means a member of the board of directors of a river authority.

(2)  "River authority" means a district created under the authority of Section 59, Article XVI, Texas Constitution, as a regional water management entity to provide water development and planning services and other services to a river basin or portion of a river basin.

Sec. 150.0102.  PARTICIPATION IN COOPERATIVE FLOOD PLANNING. A river authority may participate in cooperative flood planning to obtain money from the Texas infrastructure resiliency fund under Subchapter I, Chapter 15, including:

(1)  providing administrative or technical support; and

(2)  participation by a director, general manager, or other river authority staff in the cooperative flood planning process.

SECTION 6.  Provisions under this bill will be repealed on December 31st, 2031. Any dollars remaining in the account will be sent back to the Economic Stabilization Fund.

SECTION 7.  Not later than 30 days after the effective date of this Act, the Texas Infrastructure Resiliency Fund Advisory Committee shall select the Accredited Economic Development Organization that will serve on the advisory committee created under Section 15.543, Water Code, as added by this Act.

SECTION 8.  (a)  Not later than 90 days after the effective date of this Act, the Texas Infrastructure Resiliency Fund Advisory Committee shall submit recommendations to the Texas Water Development Board on rules to be adopted by the board under Section 15.540, Water Code, as added by the Act.

(b)  Not later than 60 days after the Texas Water Development Board receives the recommendations described by Subsection (a) of this section, the board shall adopt rules under Section 15.540, Water Code, as added by this Act.

SECTION 9.  (a)  The amount of $3,000,000,000 is appropriated out of the economic stabilization fund to the flood infrastructure fund to implement the provisions of this legislation.

(b)  Appropriations made in this section shall be available to the Texas Water Development Board for the purpose of financing resilience projects according to the provisions of this legislation.

(c)  This section takes effect only if this Act is approved by a vote of two-thirds of the members present in each house of the legislature, as provided by Section 49-g(m), Article III, Texas Constitution.

SECTION 10.  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.