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H.B. No. 13

A BILL TO BE ENTITLED

AN ACT

relating to 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), (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

1 eligibility for flood control planning money that considers:

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

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

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

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

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

16 SUBCHAPTER I. FLOOD INFRASTRUCTURE FUND

17 Sec. 15.531. DEFINITIONS. In this subchapter:

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

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

23 (A) planning and design activities;

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

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

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

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

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

8 (5) "Political subdivision bonds" means bonds or other
9 obligations issued by a political subdivision to fund a project and
10 purchased by the board from money in the infrastructure fund.

11 Sec. 15.532. FINDINGS. The legislature finds that:

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

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

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

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

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

4 (c) The infrastructure fund consists of:

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

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

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

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

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

15 (6) depository interest allocable to the
16 infrastructure fund;

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

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

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

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

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

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

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

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

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

14 (4) to make a grant to an eligible political
15 subdivision to provide matching funds to enable the eligible
16 political subdivision to participate in a federal program for a
17 flood project;

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

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

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

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

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

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

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

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

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

23 (c) An eligible political subdivision applying for
24 assistance under Section 15.534(a)(3) is not required to make the
25 demonstration described by Subsection (a)(4) of this section.

26 Sec. 15.536. APPROVAL OF APPLICATIONS. On review and
27 recommendation by the executive administrator, the board may

1 approve an application only if the board finds that:

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

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

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

11 Sec. 15.537. APPLICABLE LAW. Subchapter E, Chapter 17,
12 applies to financial assistance made available from the
13 infrastructure fund, except that the board may execute contracts as
14 necessary to evidence grant agreements.

15 Sec. 15.538. RULES. The board shall adopt rules necessary
16 to carry out this subchapter, including rules:

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

19 (2) for the investment of money; and

20 (3) for the administration of the infrastructure fund.

21 Sec. 15.539. SALE OF POLITICAL SUBDIVISION BONDS. (a) The
22 board may sell or dispose of political subdivision bonds at the
23 price and under the terms that the board determines to be
24 reasonable.

25 (b) The board may sell political subdivision bonds without
26 making a previous offer to the eligible political subdivision that
27 issued the bonds and without advertising, soliciting, or receiving

1 bids for sale.

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

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

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

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

20 Sec. 15.540. INFORMATION CLEARINGHOUSE. The board shall
21 act as a clearinghouse for information about state and federal
22 flood planning, mitigation, and control programs that may serve as
23 a source of funding for flood projects.

24 Sec. 15.541. LIABILITY. Participation in cooperative flood
25 planning to obtain money under this subchapter does not subject an
26 eligible political subdivision to civil liability in regard to a
27 flood project.

1 SECTION 4. Subchapter C, Chapter 16, Water Code, is amended
2 by adding Sections 16.061 and 16.062 to read as follows:

3 Sec. 16.061. STATE FLOOD PLAN. Not later than September 1,
4 2024, and before the end of each successive five-year period after
5 that date, the board shall prepare and adopt a comprehensive state
6 flood plan that incorporates the regional flood plans approved by
7 the board.

8 Sec. 16.062. TEN-YEAR DAM REPAIR AND MAINTENANCE PLAN. The
9 state soil and water conservation board shall prepare and adopt a
10 plan describing the repair and maintenance needs of flood control
11 dams as provided by rule and prepare and adopt a new plan before the
12 end of the 10th year following the adoption of a plan.

13 SECTION 5. Subchapter H, Chapter 49, Water Code, is amended
14 by adding Section 49.239 to read as follows:

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

20 SECTION 6. (a) The amount of \$3.26 billion is appropriated
21 out of the economic stabilization fund to the flood infrastructure
22 fund for purposes of implementing Subchapter I, Chapter 15, Water
23 Code, as added by this Act.

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

1 SECTION 7. This Act takes effect January 1, 2020, but only
2 if the constitutional amendment proposed by the 86th Legislature,
3 Regular Session, 2019, authorizing the legislature to provide for
4 the creation of the flood infrastructure fund to assist in the
5 financing of drainage, flood mitigation, and flood control projects
6 is approved by the voters. If that amendment is not approved by the
7 voters, this Act has no effect.