

By: Phelan, Larson, Longoria, Guerra, Zerwas

H.B. No. 13

Substitute the following for H.B. No. 13:

By: Farrar

C.S.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; and

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

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

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

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

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

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

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

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

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

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

1        (c) The infrastructure fund consists of:

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

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

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

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

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

12           (6) depository interest allocable to the  
13 infrastructure fund;

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

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

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

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

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

27           (2) to make a grant, low interest loan, or zero

1 interest loan to an eligible political subdivision for:

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

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

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

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

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

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

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

25 Sec. 15.535. APPLICATION REQUIREMENTS. (a) Except as  
26 provided by Subsection (c), an eligible political subdivision  
27 applying for financial assistance under this subchapter for a

1 proposed flood project must demonstrate in the application that:

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

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

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

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

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

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

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

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

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

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

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

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

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

16           (2) for the investment of money; and

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

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

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

26           (c) Notwithstanding other provisions of this chapter, the  
27 board may sell to the Texas Water Resources Finance Authority any

1 political subdivision bonds purchased with money in the  
2 infrastructure fund and may apply the proceeds of a sale in the  
3 manner provided by this section.

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

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

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

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

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

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

27 Sec. 16.061. STATE FLOOD PLAN. Not later than September 1,



1 2024, and before the end of each successive five-year period after  
2 that date, the board shall prepare and adopt a comprehensive state  
3 flood plan that incorporates the regional flood plans approved by  
4 the board.

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

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

13 SUBTITLE A. RIVER AUTHORITIES

14 SECTION 6. Subtitle A, Title 5, Water Code, as added by this  
15 Act, is amended by adding Chapter 150 to read as follows:

16 CHAPTER 150. PROVISIONS GENERALLY APPLICABLE TO RIVER AUTHORITIES

17 Sec. 150.0101. DEFINITIONS. In this chapter:

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

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

25 Sec. 150.0102. PARTICIPATION IN COOPERATIVE FLOOD  
26 PLANNING. A river authority may participate in cooperative flood  
27 planning to obtain money from the flood infrastructure fund under

1 Subchapter I, Chapter 15, Water Code, including:

2 (1) providing administrative or technical support;

3 and

4 (2) participation by a director, general manager, or

5 other river authority staff in the cooperative flood planning

6 process.

7 SECTION 7. (a) The amount of \$3.26 billion is appropriated  
8 out of the economic stabilization fund to the flood infrastructure  
9 fund for purposes of implementing Subchapter I, Chapter 15, Water  
10 Code, as added by this Act.

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

15 SECTION 8. This Act takes effect January 1, 2020, but only  
16 if the constitutional amendment proposed by the 86th Legislature,  
17 Regular Session, 2019, authorizing the legislature to provide for  
18 the creation of the flood infrastructure fund to assist in the  
19 financing of drainage, flood mitigation, and flood control projects  
20 is approved by the voters. If that amendment is not approved by the  
21 voters, this Act has no effect.