

By: Phelan

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) "Economically distressed area" means an area that
19 has a median household income that is not greater than 85 percent of
20 the median state household income for the most recent year for which
21 the applicable statistics are available.

22 (2) "Eligible political subdivision" means a district
23 or authority created under Section 52, Article III, or Section 59,
24 Article XVI, Texas Constitution, a municipality, or a county.

25 (3) "Flood project" means a drainage, flood
26 mitigation, or flood control project, including:

27 (A) planning and design activities;

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

3 (C) construction of structural flood mitigation
4 and drainage infrastructure.

5 (4) "Fund" means the flood infrastructure fund.

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

8 (6) "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 fund.

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

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

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

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

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

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

1 (c) The fund consists of:

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

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

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

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

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

10 (6) depository interest allocable to the fund;

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

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

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

19 Sec. 15.534. USE OF FUND. (a) The board may use the fund
20 only:

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

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

25 (A) a flood project to serve an area outside of a
26 metropolitan statistical area in order to ensure that the flood
27 project is implemented; or

1 (B) a flood project to serve an economically
2 distressed area;

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

7 (4) to make a grant to an eligible political
8 subdivision to provide matching funds to enable the eligible
9 political subdivision to participate in a federal program for a
10 flood project;

11 (5) as a source of revenue or security for the payment
12 of principal and interest on bonds issued by the board if the
13 proceeds of the sale of the bonds will be deposited in the fund; and

14 (6) to pay the necessary and reasonable expenses of
15 the board in administering the fund.

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

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

24 (1) the eligible political subdivision has acted
25 cooperatively with other political subdivisions to address flood
26 control needs in the area in which the eligible political
27 subdivisions are located;

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

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

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

10 (b) The application must include an analysis of whether the
11 proposed flood project could use floodwater capture techniques for
12 water supply purposes, including floodwater harvesting, detention
13 or retention basins, or other methods of capturing storm flow or
14 unappropriated flood flow.

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

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

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

23 (2) the application demonstrates a sufficient level of
24 cooperation among eligible political subdivisions and includes all
25 of the eligible political subdivisions substantially affected by
26 the flood project; and

27 (3) the taxes or other revenue, or both the taxes and

1 other revenue, pledged by the applicant will be sufficient to meet
2 all the obligations assumed by the eligible political subdivision.

3 Sec. 15.537. APPLICABLE LAW. Subchapter E, Chapter 17,
4 applies to financial assistance made available from the fund,
5 except that the board may execute contracts as necessary to
6 evidence grant agreements.

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

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

11 (2) for the investment of money; and

12 (3) for the administration of the fund.

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

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

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

26 (d) Proceeds from the sale of political subdivision bonds
27 under this section shall be deposited in the fund for use as

1 provided by Section 15.534.

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

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

12 Sec. 15.540. INFORMATION CLEARINGHOUSE. The board shall
13 act as a clearinghouse for information about state and federal
14 flood planning, mitigation, and control programs that may serve as
15 a source of funding for flood projects.

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

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

22 Sec. 16.061. STATE FLOOD PLAN. Not later than September 1,
23 2024, and before the end of each successive five-year period after
24 that date, the board shall prepare and adopt a comprehensive state
25 flood plan that incorporates regional flood plans approved by the
26 board as provided by rule.

27 Sec. 16.062. TEN-YEAR DAM REPAIR AND MAINTENANCE PLAN;

1 REPORT. The board shall prepare and adopt a plan describing the
2 repair and maintenance needs of flood control dams as provided by
3 rule and prepare and adopt a new plan before the end of the 10th year
4 following the adoption of a plan.

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

8 SUBTITLE A. RIVER AUTHORITIES

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

11 CHAPTER 150. PROVISIONS GENERALLY APPLICABLE TO RIVER AUTHORITIES

12 Sec. 150.0101. DEFINITIONS. In this chapter:

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

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

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

24 (1) providing administrative or technical support;
25 and

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

1 process.

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

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

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