

By: Davis of Harris, Howard, Wu

H.B. No. 274

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the disaster reinvestment and infrastructure planning board and the creation of the disaster reinvestment and infrastructure planning revolving fund; making an appropriation.

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

SECTION 1. Chapter 17, Water Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. DISASTER REINVESTMENT AND INFRASTRUCTURE PLANNING BOARD; REVOLVING FUND

Sec. 17.801. DEFINITIONS. In this subchapter:

(1) "Board" means, notwithstanding Section 17.001, the disaster reinvestment and infrastructure planning board.

(2) "Fund" means the disaster reinvestment and infrastructure planning revolving fund.

(3) "Trust company" means the Texas Treasury Safekeeping Trust Company.

Sec. 17.802. ESTABLISHMENT; PURPOSE. The disaster reinvestment and infrastructure planning board is established to:

(1) administer the disaster reinvestment and infrastructure planning revolving fund; and

(2) determine the eligibility of applicants for financial assistance from the fund and award grants and loans from the fund.

1 Sec. 17.803. COMPOSITION. (a) The board is composed of:

2 (1) the following ex officio members:

3 (A) a member of the Texas Water Development Board
4 designated by the presiding officer of that board;

5 (B) a member of the governing board of the Texas
6 Department of Housing and Community Affairs designated by the
7 presiding officer of that board;

8 (C) the commissioner of insurance or the
9 commissioner's designee;

10 (D) a member of the Texas Transportation
11 Commission designated by the presiding officer of the commission;

12 (E) a member of the Public Safety Commission
13 designated by the presiding officer of the commission;

14 (F) the executive commissioner of the Health and
15 Human Services Commission or the executive commissioner's
16 designee;

17 (G) the commissioner of agriculture or the
18 commissioner's designee;

19 (H) the land commissioner or the land
20 commissioner's designee;

21 (I) a member of the Texas Commission on
22 Environmental Quality designated by the presiding officer of the
23 commission; and

24 (J) the comptroller or the comptroller's
25 designee; and

26 (2) three public members, one appointed by the
27 governor, one appointed by the lieutenant governor, and one

1 appointed by the speaker of the house of representatives.

2 (b) Appointed board members serve staggered six-year terms
3 with one member's term expiring February 1 of each odd-numbered
4 year.

5 (c) The governor shall designate one member of the board to
6 serve as presiding officer of the board.

7 Sec. 17.804. ADMINISTRATIVE ATTACHMENT. (a) The board is
8 administratively attached to the Texas Water Development Board.

9 (b) The Texas Water Development Board shall provide office
10 space and administrative support services, including human
11 resources, budgetary, accounting, purchasing, payroll, information
12 technology, and legal support services, to the board as necessary
13 to carry out the purposes of this subchapter.

14 Sec. 17.805. FUND. (a) The disaster reinvestment and
15 infrastructure planning revolving fund is a special fund outside
16 the state treasury to be used by the board, without further
17 legislative appropriation, for the purpose of providing financial
18 assistance to political subdivisions in response to a disaster as
19 provided by this subchapter. The board may establish separate
20 accounts in the fund. The fund and the fund's accounts are kept and
21 held by the trust company in escrow and in trust for and in the name
22 of the board. The board has legal title to money and investments in
23 the fund until money is disbursed from the fund as provided by this
24 subchapter and board rules.

25 (b) Money deposited to the credit of the fund may be used
26 only as provided by this subchapter.

27 (c) The fund consists of:

1 (1) money transferred or deposited to the credit of
2 the fund by law, including money from any source transferred or
3 deposited to the credit of the fund at the board's discretion as
4 authorized by law;

5 (2) the proceeds of any fee or tax imposed by this
6 state that by statute is dedicated for deposit to the credit of the
7 fund;

8 (3) any other revenue that the legislature by statute
9 dedicates for deposit to the credit of the fund;

10 (4) the proceeds of bonds issued as authorized by
11 Section 49-g, Article III, Texas Constitution; and

12 (5) investment earnings and interest earned on amounts
13 credited to the fund.

14 Sec. 17.806. MANAGEMENT AND INVESTMENT OF FUND. (a) The
15 trust company shall hold and invest the fund, and any accounts
16 established in the fund, for and in the name of the board, taking
17 into account the purposes for which money in the fund may be used.
18 The fund may be co-invested with the state treasury pool.

19 (b) The overall objective for the investment of the fund is
20 to maintain sufficient liquidity to meet the needs of the fund while
21 striving to preserve the purchasing power of the fund. It is the
22 intent of the legislature that the fund remain available in
23 perpetuity for the purposes of this subchapter.

24 (c) The trust company has any power necessary to accomplish
25 the purposes of managing and investing the assets of the fund. In
26 managing the assets of the fund, through procedures and subject to
27 restrictions the trust company considers appropriate, the trust

1 company may acquire, exchange, sell, supervise, manage, or retain
2 any kind of investment that a prudent investor, exercising
3 reasonable care, skill, and caution, would acquire or retain in
4 light of the purposes, terms, distribution requirements, and other
5 circumstances of the fund then prevailing, taking into
6 consideration the investment of all the assets of the fund rather
7 than a single investment.

8 (d) The trust company may recover the costs incurred in
9 managing and investing the fund only from the earnings of the fund.

10 (e) The trust company annually shall report to the board
11 with respect to the investment of the fund. The trust company shall
12 contract with a certified public accountant to conduct an
13 independent audit of the fund annually and shall present the
14 results of each annual audit to the board. This subsection does not
15 affect the state auditor's authority to conduct an audit of the fund
16 under Chapter 321, Government Code.

17 (f) The trust company shall adopt an investment policy that
18 is appropriate for the fund. The trust company shall present the
19 investment policy to the investment advisory board established
20 under Section 404.028, Government Code. The investment advisory
21 board shall submit to the trust company recommendations regarding
22 the policy.

23 (g) The board annually shall provide to the trust company a
24 forecast of the cash flows into and out of the fund. The board shall
25 provide updates to the forecasts as appropriate to ensure that the
26 trust company is able to achieve the objective specified by
27 Subsection (b).

1 (h) The trust company shall disburse money from the fund as
2 directed by the board.

3 Sec. 17.807. USE OF MONEY IN FUND. (a) The board by rule
4 shall establish a revolving loan and grant program to use money from
5 the fund to provide financial assistance for a public
6 infrastructure project to:

7 (1) rebuild infrastructure damaged or destroyed in a
8 disaster in a manner that protects against future loss; or

9 (2) construct new infrastructure to mitigate against
10 damage from a future disaster.

11 (b) The board may provide financial assistance from the
12 fund:

13 (1) only in the form of:

14 (A) a loan to a political subdivision that is
15 located wholly or partly in an area declared by the governor to be a
16 disaster area and that the Federal Emergency Management Agency has
17 determined is eligible to receive financial assistance from the
18 agency in response to the disaster; or

19 (B) a loan or grant to:

20 (i) a political subdivision that is located
21 wholly or partly in an area declared by the governor to be a
22 disaster area and that the Federal Emergency Management Agency has
23 determined is not eligible to receive financial assistance from the
24 agency in response to the disaster, including a political
25 subdivision determined to be ineligible based solely on a failure
26 to meet minimum population requirements; or

27 (ii) a public or private hospital, other

1 than an ambulatory surgical center:

2 (a) located wholly or partly in an
3 area declared by the governor to be a disaster area;

4 (b) determined by federal agencies
5 not to be eligible for assistance;

6 (c) not eligible for private
7 insurance assistance that is sufficient to restore the hospital to
8 pre-disaster operating function; and

9 (d) the closure of which would cause
10 an imminent threat to public health in the surrounding area, as
11 determined by the Department of State Health Services; and

12 (2) only during the period for which the governor's
13 disaster declaration is in effect or for a longer period determined
14 by the board if the application for financial assistance is for a
15 public infrastructure project described by Subsection (a)(1).

16 (c) The board shall allocate money in the fund so that:

17 (1) 50 percent of the money in the fund is available to
18 provide loans under Subsection (b)(1)(A); and

19 (2) the remainder of the money in the fund is available
20 to provide loans or grants under Subsection (b)(1)(B).

21 (d) The board may not use more than 25 percent of the money
22 in the fund allocated for the purposes of Subsection (c)(2) to award
23 grants to political subdivisions to:

24 (1) assist in the payment of the political
25 subdivision's costs associated with an infrastructure project; or

26 (2) pay or defer the payment of the principal of and
27 interest on a loan received from the fund by the political

1 subdivision or extend the amount of time the political subdivision
2 has to repay the loan.

3 (e) The board may not provide financial assistance to
4 rebuild or construct a privately owned structure, except as
5 provided by Subsection (b)(1)(B)(ii).

6 Sec. 17.808. LOANS FROM FUND. (a) A loan made from the fund
7 must be subject to the following conditions:

8 (1) the loan must be made at or below market interest
9 rates for a term not to exceed 20 years;

10 (2) principal and interest payments on the loan must
11 begin not later than 18 months after the loan is originated; and

12 (3) the loan proceeds must be expended solely on an
13 infrastructure project described by Section 17.807(a).

14 (b) The board shall credit to the fund all principal and
15 interest payments on a loan from the fund.

16 (c) The board by rule shall provide for interest rates on
17 loans offered to political subdivisions to vary according to a risk
18 analysis so that a political subdivision must pay a significantly
19 higher interest rate than other political subdivisions if the
20 political subdivision is, as determined by the board, likely to
21 suffer significant additional damage in subsequent disasters.

22 Sec. 17.809. GRANTS FROM FUND. (a) The board may not make a
23 grant to a political subdivision that, based on information
24 available to the board, has experienced repeated damage from
25 disasters.

26 (b) The board shall suspend the award of grants from the
27 fund for the duration of a period during which the balance of the

1 fund is less than a minimum fund balance established by board rule.

2 Sec. 17.810. APPLICATION FOR LOAN OR GRANT. (a) The board
3 shall develop and implement an application process for a loan or
4 grant under this subchapter. At a minimum, the application must
5 include:

6 (1) a description of the infrastructure project for
7 which the applicant is requesting the loan or grant, including
8 information on the design life of the project;

9 (2) an estimate of the total cost of the project;

10 (3) an estimate of the amount of federal money the
11 applicant expects to receive for the project, if any;

12 (4) an estimate of the amount of money the applicant
13 has available to finance the project, if any;

14 (5) evidence that the applicant has staff, policies,
15 and procedures in place adequate to complete the project;

16 (6) information on the percentage of properties
17 located within the political subdivision's jurisdiction that are
18 covered by flood insurance, if the application is from a political
19 subdivision; and

20 (7) information regarding the protections from future
21 disasters that have been incorporated into the siting or design of
22 the project.

23 (b) The board by rule shall adopt a point system to allow the
24 board to prioritize certain applicants based on:

25 (1) the type of infrastructure project for which the
26 applicant is requesting the loan or grant and the stage of
27 development of the project;

1 (2) information provided by the applicants, or other
2 information that is available to the board, including information
3 regarding the applicants' ability to repay a loan from the fund;

4 (3) the availability of other money, including state
5 or federal matching funds, for the infrastructure project for which
6 the applicant is requesting the loan or grant;

7 (4) the existence of an emergency or an imminent
8 threat to public health;

9 (5) criteria that indicates the project incorporates
10 natural features, nature-based engineering approaches, or
11 characteristics that:

12 (A) make positive impacts on the environment;

13 (B) preserve or make efficient use of energy and
14 associated resources; or

15 (C) reduce negative impacts on the natural
16 environment;

17 (6) the percentage of properties located within the
18 political subdivision's jurisdiction that are covered by flood
19 insurance, if the applicant is a political subdivision;

20 (7) the applicant's past history of and future risk for
21 repeated damage from disasters, if the applicant is a political
22 subdivision; and

23 (8) other criteria developed by the board.

24 (c) The board by rule shall provide an expedited procedure
25 for acting on an application for financial assistance from the fund
26 for an infrastructure project. The expedited procedure must not
27 affect an applicant's receipt of federal money to which the

1 applicant may be eligible as a result of the disaster.

2 Sec. 17.811. REPORT. Not later than December 1 of each
3 even-numbered year, the board shall prepare and submit to the
4 governor, the lieutenant governor, and each member of the
5 legislature a report that includes:

6 (1) the balance of the fund as of that date;

7 (2) the total dollar amount of disbursements from the
8 fund during the two-year period preceding that date; and

9 (3) a general description of each public
10 infrastructure project for which an applicant was awarded a grant
11 or loan from the fund during the two-year period preceding that date
12 and the approximate cost of each of those projects.

13 SECTION 2. As soon as practicable after the effective date
14 of this Act, the governor, lieutenant governor, and speaker of the
15 house of representatives shall appoint members to the disaster
16 reinvestment and infrastructure planning board, as required by
17 Section 17.803, Water Code, as added by this Act. The governor
18 shall appoint one member to a term expiring February 1, 2025. The
19 lieutenant governor shall appoint one member to a term expiring
20 February 1, 2023. The speaker of the house of representatives shall
21 appoint one member to a term expiring February 1, 2021.

22 SECTION 3. (a) The amount of \$1 billion is appropriated
23 from the economic stabilization fund to the comptroller for the
24 purpose of transferring that amount immediately to the credit of
25 the disaster reinvestment and infrastructure planning revolving
26 fund as created by this Act.

27 (b) This section takes effect only if this Act is approved

1 by a vote of two-thirds of the members present in each house of the
2 legislature, as provided by Section 49-g(m), Article III, Texas
3 Constitution.

4 SECTION 4. Except as otherwise provided by this Act, this
5 Act takes effect September 1, 2019.