

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.

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

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

6 SUBCHAPTER I. TEXAS INFRASTRUCTURE RESILIENCY FUND

7 Sec. 15.531. DEFINITIONS. In this subchapter:

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

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

13 (A) planning or design activities;

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

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

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

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

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

25 Sec. 15.532. TEXAS INFRASTRUCTURE RESILIENCY FUND.

26 (a) The Texas Infrastructure Resiliency Fund is a special fund in  
27 the state treasury outside the general revenue fund to be used and

1 administered by the board under this subchapter and under rules  
2 adopted by the board under this subchapter.

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

4 (c) The fund consists of:

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

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

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

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

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

13 (6) depository interest allocable to the fund;

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

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

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

22 Sec. 15.533. USE OF TEXAS INFRASTRUCTURE RESILIENCY FUND.

23 (a) The board may use the fund only:

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

27 (2) to make a loan at or below market interest rates

1 for planning or design costs, permitting costs, or other costs  
2 associated with state or federal regulatory activities with respect  
3 to a flood project;

4 (3) to make a grant, low-interest loan, or  
5 zero-interest loan to an eligible political subdivision to provide  
6 matching funds to enable the eligible political subdivision to  
7 participate in a federal program for a flood project;

8 (4) to make a grant to an eligible political  
9 subdivision to provide matching funds to enable the eligible  
10 political subdivision to participate in a federal program for the  
11 development of a hazard mitigation plan, pursuant to guidelines  
12 issued by the Federal Emergency Management Agency or by the Texas  
13 Division of Emergency Management or succeeding equivalent  
14 organization;

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 fund;

18 (6) to purchase political subdivision bonds; and

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

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

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

27 (d) An eligible political subdivision may receive both a

1 grant and a loan under this section for a flood project.

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

5 Sec. 15.534. PRIORITIZATION OF PROJECTS. (a) The board  
6 shall establish a point system for prioritizing flood projects for  
7 which money is sought from the fund. The system must include a  
8 standard for the board to apply in determining whether a flood  
9 project qualifies for funding at the time the application for  
10 funding is filed with the board.

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

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

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

19 (3) meets and emergency need;

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

22 (5) will provide regionalization;

23 (6) are included in a statewide flood plan;

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

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

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

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

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

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

11                   (B) the current status of the project;

12                   (C) the proposed benefit of the project;

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

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

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

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

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

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

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

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

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

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

12          (6) any other information required by board rule.

13          Sec. 15.536. APPLICATION REQUIREMENTS. (a) Except as  
14 provided by Subsection (c), an eligible political subdivision  
15 applying for financial assistance under this subchapter for a  
16 proposed flood project must demonstrate in the application that:

17          (1) the eligible political subdivision has acted  
18 cooperatively with other political subdivisions to address flood  
19 control needs in the area in which the eligible political  
20 subdivisions are located;

21          (2) all political subdivisions substantially affected  
22 by the proposed flood project have participated in the process of  
23 developing the proposed flood project;

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

27          (4) the technical requirements for the proposed flood

1 project have been completed and compared against any other  
2 potential flood projects in the same area.

3 (b) The application must include an analysis of whether the  
4 proposed flood project could use floodwater capture techniques for  
5 water supply purposes, including floodwater harvesting, detention  
6 or retention basins, or other methods of capturing storm flow or  
7 unappropriated flood flow.

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

11 Sec. 15.537. APPROVAL OF APPLICATIONS. On review and  
12 recommendation by the executive administrator, with input from the  
13 director of the Texas Division of Emergency Management or the  
14 succeeding equivalent organization, the board may approve an  
15 application only if the board finds that:

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

18 (2) the application demonstrates a sufficient level of  
19 cooperation among eligible political subdivisions and includes all  
20 of the political subdivisions substantially affected by the flood  
21 project; and

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

25 Sec. 15.538. APPLICABLE LAW. Subchapter E, Chapter 17,  
26 applies to financial assistance made available from the fund,  
27 except that the board may execute contracts as necessary to



1 evidence grant agreements.

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

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

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

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

9 (4) for the investment of money; and

10 (5) for the administration of the fund.

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

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

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

17 (3) no penalties for early repayment; and

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

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

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

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

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

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

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

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

23       Sec. 15.541. INFORMATION CLEARINGHOUSE. The board shall  
24 act as a clearinghouse for information about state and federal  
25 flood planning, mitigation, and control programs that may serve as  
26 a source of funding for flood projects.

27       Sec. 15.542. LIABILITY. Participation in cooperative flood

1 planning to obtain money under this subchapter does not subject an  
2 eligible political subdivision to civil liability in regards to a  
3 flood project.

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

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

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

12 (b) The advisory committee may hold public hearings, formal  
13 meetings, or work sessions. Either co-presiding officer of the  
14 advisory committee may call a public hearing, formal meeting, or  
15 work session of the advisory committee at any time. The advisory  
16 committee may not take formal action at a public hearing, formal  
17 meeting, or work session unless a quorum of the committee is  
18 present.

19 (c) Except as otherwise provided by this subsection, a  
20 member of the advisory committee is not entitled to receive  
21 compensation for service on the committee or reimbursement for  
22 expenses incurred in the performance of official duties as a member  
23 of the committee. Service on the advisory committee by a member of  
24 the senate or house of representatives is considered legislative  
25 service for which the member is entitled to reimbursement and other  
26 benefits in the same manner and to the same extent as for other  
27 legislative service.

1       (d) The advisory committee may submit comments and  
2 recommendations to the board regarding the use of money in the fund  
3 and for use by the board in adopting rules under Section 15.540.

4       (e) The advisory committee shall review the overall  
5 operation, function, and structure of the fund at least annually  
6 and may provide comments and recommendations to the board on any  
7 matter.

8       (f) The advisory committee may adopt rules, procedures, and  
9 policies as needed to administer this section and implement its  
10 responsibilities.

11       (g) Chapter 2110, Government Code, does not apply to the  
12 size, composition, or duration of the advisory committee.

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

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

20       (j) The board shall provide an annual report to the advisory  
21 committee on:

22               (1) the board's compliance with statewide annual goals  
23 relating to historically underutilized businesses; and

24               (2) the participation level of historically  
25 underutilized businesses in flood projects that receive money from  
26 the fund.

27       (k) If the aggregate level of participation by historically

1 underutilized businesses in projects that receive money from the  
2 fund does not meet statewide annual goals adopted under Chapter  
3 2161, Government Code, the advisory committee shall make  
4 recommendations to the board to improve the participation level.

5 (1) The board shall provide staff support for the advisory  
6 committee.

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

10 SUBTITLE A. RIVER AUTHORITIES

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

13 CHAPTER 150. PROVISIONS GENERALLY APPLICABLE TO RIVER AUTHORITIES

14 Sec. 150.0101. DEFINITIONS. In this chapter:

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

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

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

26 (1) providing administrative or technical support;  
27 and

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

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

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

12           SECTION 8. (a) Not later than 90 days after the effective  
13 date of this Act, the Texas Infrastructure Resiliency Fund Advisory  
14 Committee shall submit recommendations to the Texas Water  
15 Development Board on rules to be adopted by the board under Section  
16 15.540, Water Code, as added by the Act.

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

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

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

1 legislation.

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

6           SECTION 10. This Act takes effect immediately if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.  
9 If this Act does not receive the vote necessary for immediate  
10 effect, this Act takes effect September 1, 2019.