

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 18, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
 Legislative Budget Board

IN RE: SB7 by Creighton (Relating to flood planning, mitigation, and infrastructure projects; making an appropriation.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB7, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$0
2023	\$0
2024	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Floodplain Management Fund</i> 330	Probable Revenue Gain/(Loss) from <i>New Floodplain Management Account in New Texas Infrastructure Resiliency Fund</i>
2020	(\$6,020,000)	\$6,020,000
2021	(\$3,050,000)	\$3,050,000
2022	(\$3,050,000)	\$3,050,000
2023	(\$3,050,000)	\$3,050,000
2024	(\$3,050,000)	\$3,050,000

Fiscal Analysis

The bill would amend the Water Code to establish two new accounts, the Flood Infrastructure Fund and the Texas Infrastructure Resiliency Fund, and to broaden the type of contracts that can be funded through the Texas Water Development Board's (TWDB) Research and Planning program within the Texas Water Assistance Program to include work related to planning for flood protection. The bill would allow TWDB to issue revenue bonds for both new accounts. The bill would require TWDB, when considering funding for flood protection, to prioritize applications for financial assistance from counties with a median household income not greater than 85 percent of the state's median household income. The bill would require TWDB to act as an information clearinghouse for state and federal funding programs for flood planning, mitigation, and control, and would require any state agency that uses or disburses federal funds for flood research, planning, or mitigation projects to submit quarterly reports to TWDB regarding those funds.

Flood Infrastructure Fund (FIF)

The bill would amend the Water Code to create the Flood Infrastructure Fund (FIF). The fund would be held in the state treasury outside of general revenue and would be administered by the Texas Water Development Board (TWDB), without further legislative appropriation, to assist in the financing, through loans and grants, of drainage, flood control, and flood mitigation projects. The fund would consist of appropriations from the Legislature, proceeds of general obligation bonds, repayments from loans made from the fund, and proceeds from the sale of bonds or other obligations held in the fund. The bill would authorize river authorities to engage in collaborative planning to secure funding from the fund. TWDB would be authorized to transfer funds from the FIF to the Research and Planning Fund. The State Water Implementation Fund for Texas (SWIFT) advisory committee would oversee the FIF, review the fund semiannually, and provide recommendations regarding the fund.

The effective date of the FIF provisions would be January 1, 2020, but only if the constitutional amendment authorizing the legislature to provide for the creation of the FIF to assist in the financing of drainage, flood mitigation, and flood control projects is approved by the voters.

Texas Infrastructure Resiliency Fund (TIRF)

The bill would amend the Water Code to create a new fund called the Texas Infrastructure Resiliency Fund (TIRF) that includes four distinct accounts, would eliminate and reincorporate the existing Floodplain Management Account No. 330 into the TIRF, would establish an advisory committee for the TIRF, and would require the Texas Water Development Board (TWDB) to adopt rules related to managing and distributing funds in the TIRF.

The bill would create the TIRF as a special fund in the state treasury outside of the General Revenue Fund, to be administered by TWDB. The TIRF would be created with four sub-accounts: (1) the Floodplain Management Account, which currently exists as a separate account, (2) the Hurricane Harvey Account, (3) the Flood Plan Implementation Account, and (4) the Federal Matching Account.

The Floodplain Management Account would be used for projects related to flood planning, protection, mitigation or adaptation; for collecting and analyzing flood-related information; for providing flood-related information to the public; and for evaluating the response to and mitigation of flooding affecting residential property. The bill would remove as a use of the Floodplain Management Account the funding of TWDB's general functions of coordinating the National Flood Insurance Program. The account would be funded with insurance maintenance

taxes in the amount of \$3,050,000 each year established under Insurance Code Sec. 251.004. The bill would authorize the investment, reinvestment, and direct the investment of any funds in the TIRF as provided by law specified by the bill.

The Hurricane Harvey Account would be used by TWDB solely to provide funding to the Texas Division of Emergency Management (TDEM) for TDEM to provide financing for projects related to Hurricane Harvey. TDEM could provide grants and loans to eligible political subdivisions for flood projects and could provide grants for federal matching funds for flood projects. Flood projects funded by the Hurricane Harvey Account must be related to Hurricane Harvey and TDEM must determine that the taxes and revenues pledged by an applicant for a loan would be sufficient to repay that loan. TWDB would be required to collaborate with TDEM to establish a priority system, and TDEM would be required to give highest consideration to projects with a substantial effect. Loans made under the Hurricane Harvey Account could have principal and interest payments deferred for the earlier of ten years or the completion of construction. Grants and loans made from the Hurricane Harvey Account could not provide more than 75 percent of the non-federal funding for the project. The Hurricane Harvey Account would expire on September 1, 2031, and any remaining balances would be transferred to the Flood Plan Implementation Account.

The Flood Plan Implementation Account would be created contingent on enactment of legislation of the Eighty-Sixth Legislature, Regular Session, that requires the creation of a state flood plan, and the account would be created on the date that TWDB adopts the initial state flood plan. The Flood Plan Implementation Account could only be used to provide financing for projects included in the state flood plan, and funds from the account could be awarded to several political subdivisions for a single flood project.

The Federal Matching Account could only be used to provide matching funds for flood projects receiving federal funding, including projects funded by the U.S. Army Corps of Engineers. The account would be authorized to make below market rate loans to subdivisions with flexible repayment terms to finance the local match of federal ship channel projects.

The bill would create the TIRF Advisory Committee consisting of the seven members of the State Water Implementation Fund for Texas Advisory Committee as well as the director of TDEM, who would serve as a non-voting member. The TIRF Advisory Committee would hold public hearings and would submit recommendations regarding TWDB rules for the TIRF, use of funds in the TIRF, and the feasibility of state involvement with flood projects.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fuaccount, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The effective date of the TIRF provisions would be September 1, 2019, or immediately if the bill receives a vote of two-thirds of all the members elected to each house.

Methodology

The bill would establish new responsibilities for TWDB, but the agency has indicated those responsibilities could be implemented using existing resources. However, if a large appropriation were made to the TIRF or the FIF, the agency indicates it would require additional FTEs to manage those responsibilities. An additional appropriation to the TIRF or FIF is not considered for the

purposes of this analysis.

The bill would remove as a use of the Floodplain Management Account the funding of TWDB's general functions of coordinating the National Flood Insurance Program. According to TWDB, the impact of this change would be minimal as staff salaries are currently funded through federal funds and General Revenue.

Based on the analysis of the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

Based on the analysis of the Comptroller of Public Accounts, the bill would fund the Floodplain Management Account by transferring the balance of the Floodplain Management Fund No. 330, projected to be \$2,970,000 on September 1, 2019, into the new Floodplain Management Account inside the TIRF. This analysis also assumes that revenues deposited to the credit of the Floodplain Management Fund No. 330 under current law from insurance maintenance tax transfers in the amount of \$3,050,000 each fiscal year would continue and would instead be deposited to the credit of the new Floodplain Management Account. Based on the analysis of the Comptroller of Public Accounts, the method of funding for the other sub-accounts in the TIRF are not specified and as such the fiscal impact cannot be determined.

Local Government Impact

According to the Texas Association of Counties, the bill will have a positive fiscal impact on those counties that receive grants, low-interest loans or zero-interest loans from the proposed Texas Infrastructure Resiliency Fund or the Flood Infrastructure Fund.

Source Agencies: 580 Water Development Board, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: WP, PBO, SZ, MW, LCO, SMi, AF, PM