

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 13, 2019

TO: Honorable Charles Perry, Chair, Senate Committee on Water & Rural Affairs

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

IN RE: SB7 by Creighton (Relating to flood control planning and the funding of flood planning, mitigation, and infrastructure projects.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB7, Committee Report 1st House, Substituted: 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 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 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 and the Flood Plan Implementation Account would provide grants and loans to eligible political subdivisions either directly for flood projects or indirectly for federal matching funds for flood projects. Flood projects funded by the Hurricane Harvey Account must be related to Hurricane Harvey. For both the Hurricane Harvey Account and the Flood Plan Implementation Account, TWDB must determine that the taxes and revenues pledged by an applicant for a loan would be sufficient to repay that loan. For both of these accounts, TWDB would be required to establish a priority system that gives highest consideration to projects with a substantial effect, particularly those recommended by the Texas Division of Emergency Management (TDEM) or those that meet an emergency need in a county in a Governor-declared disaster. For projects funded with the Flood Plan Implementation Account, the priority system could also consider whether the project would receive federal funds or would increase water supply. Loans made under either of these accounts may have principal and interest payments deferred for the earlier of ten years or the completion of construction. Grants made from the Flood Plan Implementation Fund could not finance more than 75 percent of a flood project. 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 funds remaining in the account at that time would be transferred to the Flood Plan Implementation Account.

The Federal Matching Account could only be used to provide matching funds for flood projects receiving federal funding.

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.

The bill would require any state agency or university that receives federal funds related to flood research, planning, or mitigation to submit quarterly reports to TWDB regarding the amount of

federal funds received, the amount of federal funds expended, and the eligibility requirements related to the funds.

The bill would require TWDB to keep updated information on its website regarding use of the TIRF, progress in developing flood projects, status and description of funded flood projects, and other information.

To the extent that a bill is enacted by the Eighty-sixth Legislature, Regular Session, creating a state flood plan, the statutory provisions regarding the Flood Plan Implementation Account included in this bill would expire and new provisions stating that the Flood Plan Implementation Account may only be used for financing projects included in the state flood plan would go into effect once TWDB adopts such a state flood plan.

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 in, with, or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

This bill would be effective either on September 1, 2019, or immediately if it 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, the agency indicates it would require additional FTEs to manage those responsibilities. An additional appropriation to the TIRF is not considered for the purposes of this analysis.

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. In addition, annual revenues comprised of \$3,050,000 in insurance maintenance taxes established in Insurance Code 251.004 would be deposited to the credit of the Floodplain Management Account each fiscal year.

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.

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

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