

BILL ANALYSIS

C.S.H.B. 3582
By: Harris, Cody
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 86th Legislature significantly expanded the responsibilities of the Texas Water Development Board (TWDB) with respect to flood mitigation, including activities in planning, science, and financial assistance. The flood infrastructure fund (FIF) and the Texas infrastructure resiliency fund (TIRF) were established to provide financial assistance to political subdivisions of the state for flood projects, and the TWDB was directed to establish a state flood plan to be delivered to the legislature by September 1, 2024.

Once the state flood plan is adopted, several things are set to happen. For one, the flood plan implementation account in the TIRF will take effect to provide financing for projects in the plan. This account is set to receive the funds remaining in the Hurricane Harvey account on its expiration in 2031. Given that the uses of the flood plan implementation account and the FIF will be duplicative, identifying a single location for funds would provide clarity for the TWDB.

Additionally, existing direction regarding the TWDB's allowable uses of the FIF is set to be deleted and replaced with new direction limiting the use of the FIF to only provide financing for projects in the state flood plan. The law should be changed so that the existing direction is not deleted. However, the authorization for the FIF to be used to make certain grants or loans for a flood project serving an area outside of a metropolitan statistical area (MSA) needs adjustment. MSAs capture the county containing an urban center as well as surrounding counties, often including areas that are rural. Using an alternative term could allow rural areas within urban-adjacent counties to be eligible for available FIF grant funding.

In anticipation of the adoption of the state flood plan, C.S.H.B. 3582 seeks to repeal provisions relating to the flood plan implementation account, designate the FIF as the recipient of the remaining Hurricane Harvey account funds instead, and revise provisions relating to the use of the FIF.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3582 repeals sections of Chapter 947 (S.B. 7), Acts of the 86th Legislature, Regular Session, 2019, and the Water Code relating to the flood plan implementation account in the Texas infrastructure resiliency fund and amends the Water Code to change from that account to

the flood infrastructure fund (FIF) the entity to which the remaining balance of the Hurricane Harvey account, upon its expiration, is transferred.

C.S.H.B. 3582 repeals a section of Chapter 947 (S.B. 7), Acts of the 86th Legislature, Regular Session, 2019, that provides for statutory provisions relating to the use of the FIF that are currently in effect to expire on the adoption of a state flood plan and be replaced with provisions limiting use of the FIF to financing for flood projects included in the plan and authorizing FIF money to be awarded to several eligible political subdivisions for a single flood project. The bill codifies that limitation and authorization within the current provisions instead and establishes exceptions to the limitation on the use of the FIF once the state flood plan is adopted for the following purposes authorized under the current law:

- paying principal and interest on bonds issued by the Texas Water Development Board (TWDB) if the proceeds of the sale of the bonds will be deposited in the FIF;
- paying the necessary and reasonable expenses of the TWDB in administering the FIF; and
- making transfers to the research and planning fund established under the Texas water assistance program.

C.S.H.B. 3582 replaces the authorization for the TWDB to use the FIF to make a grant or loan at or below market interest rates to an eligible political subdivision for a flood project to serve an area outside of a metropolitan statistical area with an authorization to make such a grant or loan for a flood project to serve a rural political subdivision, defined by the bill as follows:

- a nonprofit water supply or sewer service corporation or a conservation or reclamation district or authority, no part of the service area of which is located in an urban area with a population of more than 50,000;
- a municipality that meets either of the following criteria:
 - has a population of 10,000 or less, no part of the service area of which is located in an urban area with a population of 50,000 or more; or
 - is located wholly in a county in which no urban area has a population of more than 50,000;
- a county in which no urban area has a population of more than 50,000; or
- an entity that meets both of the following criteria:
 - is a nonprofit water supply or sewer service corporation, a conservation or reclamation district or authority, municipality, county, or other political subdivision of the state, or an interstate compact commission to which the state is a party; and
 - demonstrates in a manner satisfactory to the TWDB that the entity is rural or the area to be served by the project is a wholly rural area despite not otherwise qualifying under any of the other elements of the definition.

The bill makes that definition applicable to all provisions governing the Texas water assistance program, including those regarding the rural water assistance fund. The bill repeals a definition of "rural political subdivision" applicable to that fund that includes only a county in which no urban area exceeds 50,000 in population or a nonprofit water supply or sewer service corporation, district, or municipality with a service area of 10,000 or less in population or that otherwise qualifies for financing from a federal agency.

C.S.H.B. 3582 repeals the following provisions of the Water Code:

- Section 15.531(4);
- Section 15.5341;
- Section 15.992(4); and
- Section 16.4545.

The bill also repeals Sections 2.03 and 3.06 of Chapter 947 (S.B. 7), Acts of the 86th Legislature, Regular Session, 2019.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3582 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The introduced changed the type of project for which the TWDB may use the FIF to make a grant or loan from a project serving an area outside a metropolitan statistical area to a project serving a rural area, with no set definition of that term. The substitute changes it to a project serving a "rural political subdivision" and defines that term, for purposes of all Texas water assistance program provisions, to include certain entities that satisfy specified population thresholds or demonstrate to the TWDB that they otherwise qualify. Accordingly, the substitute repeals a definition of "rural political subdivision" applicable to the rural water assistance fund, whereas the introduced did not.