

1-1 By: Creighton, et al. S.B. No. 7
1-2 (In the Senate - Filed March 6, 2019; March 7, 2019, read
1-3 first time and referred to Committee on Water & Rural Affairs;
1-4 March 14, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 14, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 7 By: Creighton

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to flood control planning and the funding of flood
1-20 planning, mitigation, and infrastructure projects.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 16, Water Code, is amended by adding
1-23 Subchapter L to read as follows:

1-24 SUBCHAPTER L. FLOOD PROJECT FUNDING

1-25 Sec. 16.451. DEFINITIONS. In this subchapter:

1-26 (1) "Advisory committee" means the Texas
1-27 Infrastructure Resiliency Fund Advisory Committee.

1-28 (2) "Eligible political subdivision" means a district
1-29 or authority created under Section 52, Article III, or Section 59,
1-30 Article XVI, Texas Constitution, a municipality, or a county.

1-31 (3) "Flood project" means a drainage, flood
1-32 mitigation, or flood control project, including:

1-33 (A) planning and design activities;

1-34 (B) work to obtain regulatory approval to provide
1-35 structural and nonstructural flood mitigation and drainage; and

1-36 (C) construction of structural flood mitigation
1-37 and drainage infrastructure.

1-38 (4) "Resiliency fund" means the Texas infrastructure
1-39 resiliency fund.

1-40 Sec. 16.452. TEXAS INFRASTRUCTURE RESILIENCY FUND.

1-41 (a) The Texas infrastructure resiliency fund is a special fund in
1-42 the state treasury outside the general revenue fund.

1-43 (b) The resiliency fund shall be administered by the board
1-44 in accordance with this subchapter.

1-45 (c) The board may invest, reinvest, and direct the
1-46 investment of any available money in the resiliency fund as
1-47 provided by law for the investment of money under Section 404.024,
1-48 Government Code.

1-49 Sec. 16.453. FLOODPLAIN MANAGEMENT ACCOUNT. (a) The
1-50 floodplain management account is an account of the resiliency fund.

1-51 (b) The account consists of:

1-52 (1) money deposited to the credit of the account under
1-53 Section 251.004, Insurance Code;

1-54 (2) money directly appropriated to the board; and

1-55 (3) money from gifts or grants from the United States
1-56 government, local or regional governments, private sources, or
1-57 other sources.

1-58 (c) The board may use the account to provide financing for:

1-59 (1) the board's functions under Section 16.316; or

1-60 (2) any other activities related to:

2-1 (A) the collection and analysis of flood-related
2-2 information;
2-3 (B) flood planning, protection, mitigation, or
2-4 adaptation;
2-5 (C) the provision of flood-related information
2-6 to the public through educational or outreach programs; or
2-7 (D) evaluating the response to and mitigation of
2-8 flood incidents affecting residential property, including
2-9 multifamily units, located in floodplains.

2-10 Sec. 16.454. HURRICANE HARVEY ACCOUNT. (a) The Hurricane
2-11 Harvey account is an account in the resiliency fund.

2-12 (b) The board may use the account only to provide financing
2-13 for flood projects related to Hurricane Harvey. Financing under
2-14 this section includes making a:

2-15 (1) grant, low-interest loan, or zero-interest loan to
2-16 an eligible political subdivision:

2-17 (A) for a flood project; or
2-18 (B) to provide matching funds to enable the
2-19 subdivision to participate in a federal program for a flood
2-20 project;

2-21 (2) loan to an eligible political subdivision at or
2-22 below market interest rates for the subdivision's planning or
2-23 design costs, permitting costs, or other costs associated with
2-24 state or federal regulatory activities with respect to a flood
2-25 project; and

2-26 (3) grant to an eligible political subdivision to
2-27 provide matching funds to enable the subdivision to participate in
2-28 a federal program for the development of a hazard mitigation plan,
2-29 under guidelines issued by the Federal Emergency Management Agency
2-30 or the Texas Division of Emergency Management or the successor in
2-31 function to those entities.

2-32 (c) A grant or a loan awarded under this section may not
2-33 provide more than 75 percent of the portion of the cost of the
2-34 project that is paid with money other than money from a federal
2-35 program.

2-36 (d) The board shall establish a point system for
2-37 prioritizing flood projects for which money from the Hurricane
2-38 Harvey account is sought. The system must include a standard for
2-39 the board to apply in determining whether a flood project qualifies
2-40 for funding at the time the application for funding is filed with
2-41 the board.

2-42 (e) The board shall give the highest consideration in
2-43 awarding points to a flood project that will have a substantial
2-44 effect, including a flood project that:

2-45 (1) is recommended or approved by the director of the
2-46 Texas Division of Emergency Management or the successor in function
2-47 to that entity; and

2-48 (2) meets an emergency need in a county where the
2-49 governor has declared a state of disaster.

2-50 (f) After review and recommendation by the executive
2-51 administrator and with input from the director of the Texas
2-52 Division of Emergency Management or the successor in function to
2-53 that entity, the board may approve an application for financial
2-54 assistance under this section only if the board finds that:

2-55 (1) the application and assistance applied for meet
2-56 the requirements of this subchapter and board rules;

2-57 (2) the application demonstrates a sufficient level of
2-58 cooperation among applicable political subdivisions and includes
2-59 all of the political subdivisions substantially affected by the
2-60 flood project; and

2-61 (3) the taxes or other revenue, or both the taxes and
2-62 other revenue, pledged by the applicant, if applicable, will be
2-63 sufficient to meet all the obligations assumed by the applicant.

2-64 (g) Principal and interest payments on loans made under
2-65 Subsection (b)(2) may be deferred for not more than 10 years or
2-66 until construction of the flood project is completed, whichever is
2-67 earlier.

2-68 (h) Money from the account may be awarded to several
2-69 eligible political subdivisions for a single flood project.

- 3-1 (i) An eligible political subdivision that receives a grant
3-2 for a flood project also may receive a loan from the account.
- 3-3 (j) This section expires September 1, 2031. The remaining
3-4 balance of the account on that date is transferred to the flood plan
3-5 implementation account.
- 3-6 Sec. 16.455. FLOOD PLAN IMPLEMENTATION ACCOUNT. (a) The
3-7 flood plan implementation account is an account in the resiliency
3-8 fund.
- 3-9 (b) The board may use the account only to make:
- 3-10 (1) a grant, low-interest loan, or zero-interest loan
3-11 to an eligible political subdivision:
- 3-12 (A) for a flood project; or
3-13 (B) to provide matching funds to enable the
3-14 subdivision to participate in a federal program for a flood
3-15 project;
- 3-16 (2) a loan to an eligible political subdivision at or
3-17 below market interest rates for the subdivision's planning or
3-18 design costs, permitting costs, or other costs associated with
3-19 state or federal regulatory activities with respect to a flood
3-20 project; and
- 3-21 (3) a grant to an eligible political subdivision to
3-22 provide matching funds to enable the subdivision to participate in
3-23 a federal program for the development of a hazard mitigation plan,
3-24 under guidelines issued by the Federal Emergency Management Agency
3-25 or the Texas Division of Emergency Management or the successor in
3-26 function to those entities.
- 3-27 (c) The board shall establish a point system for
3-28 prioritizing flood projects for which money from the flood plan
3-29 implementation account is sought. The system must include a
3-30 standard for the board to apply in determining whether a flood
3-31 project qualifies for funding at the time the application for
3-32 funding is filed with the board.
- 3-33 (d) The board shall give the highest consideration in
3-34 awarding points to a flood project that will have a substantial
3-35 effect, including a flood project that:
- 3-36 (1) is recommended or approved by the director of the
3-37 Texas Division of Emergency Management or the successor in function
3-38 to that entity;
- 3-39 (2) meets an emergency need in a county where the
3-40 governor has declared a state of disaster;
- 3-41 (3) is funded partially through federal matching
3-42 funds;
- 3-43 (4) includes a component that will increase water
3-44 supply; and
- 3-45 (5) contains any other factor the board determines is
3-46 relevant to the purposes of resiliency.
- 3-47 (e) After review and recommendation by the executive
3-48 administrator and with input from the director of the Texas
3-49 Division of Emergency Management or the successor in function to
3-50 that entity, the board may approve an application under this
3-51 section only if the board finds that:
- 3-52 (1) the application and the assistance applied for
3-53 meet the requirements of this subchapter and board rules;
- 3-54 (2) the application demonstrates a sufficient level of
3-55 cooperation among eligible political subdivisions and includes all
3-56 of the political subdivisions substantially affected by the flood
3-57 project; and
- 3-58 (3) the taxes or other revenue, or both the taxes and
3-59 other revenue, pledged by the applicant, if applicable, will be
3-60 sufficient to meet all the obligations assumed by the applicant.
- 3-61 (f) Principal and interest payments on loans made under
3-62 Subsection (b)(2) may be deferred for not more than 10 years or
3-63 until construction of the flood project is completed, whichever is
3-64 earlier.
- 3-65 (g) Money from the account may be awarded to several
3-66 eligible political subdivisions for a single flood project.
- 3-67 (h) An award issued as a grant may finance not more than 75
3-68 percent of the total cost of a flood project.
- 3-69 (i) An eligible political subdivision that receives a grant

4-1 for a flood project also may receive a loan from the account.

4-2 Sec. 16.456. FEDERAL MATCHING ACCOUNT. (a) The federal
4-3 matching account is an account in the resiliency fund.

4-4 (b) The board may use the account only to meet matching
4-5 requirements for projects funded partially by federal money,
4-6 including projects funded by the United States Army Corps of
4-7 Engineers.

4-8 Sec. 16.457. TEXAS INFRASTRUCTURE RESILIENCY FUND ADVISORY
4-9 COMMITTEE. (a) The Texas Infrastructure Resiliency Fund Advisory
4-10 Committee is composed of the seven members that serve on the State
4-11 Water Implementation Fund for Texas Advisory Committee described by
4-12 Section 15.438, with the co-presiding officers of that committee
4-13 serving as presiding officers of the advisory committee. The
4-14 director of the Texas Division of Emergency Management or the
4-15 successor in function to that entity serves as a nonvoting member of
4-16 the advisory committee, as an additional duty of the director's
4-17 office.

4-18 (b) The advisory committee may hold public hearings, formal
4-19 meetings, or work sessions. Either co-presiding officer of the
4-20 advisory committee may call a public hearing, formal meeting, or
4-21 work session of the advisory committee at any time. The advisory
4-22 committee may not take formal action at a public hearing, formal
4-23 meeting, or work session unless a quorum of the committee is
4-24 present.

4-25 (c) Except as otherwise provided by this subsection, a
4-26 member of the advisory committee is not entitled to receive
4-27 compensation for service on the committee or reimbursement for
4-28 expenses incurred in the performance of official duties as a member
4-29 of the committee. Service on the advisory committee by a member of
4-30 the senate or house of representatives is considered legislative
4-31 service for which the member is entitled to reimbursement and other
4-32 benefits in the same manner and to the same extent as for other
4-33 legislative service.

4-34 (d) The advisory committee may submit comments and
4-35 recommendations to the board regarding the use of money in the
4-36 resiliency fund and for use by the board in adopting rules.

4-37 (e) The advisory committee shall review the overall
4-38 operation, function, and structure of the resiliency fund at least
4-39 semiannually and may provide comments and recommendations to the
4-40 board on any matter.

4-41 (f) The advisory committee may adopt rules, procedures, and
4-42 policies as needed to administer this section and implement its
4-43 responsibilities.

4-44 (g) The advisory committee shall make recommendations to
4-45 the board regarding information on the resiliency fund to be posted
4-46 on the board's Internet website.

4-47 (h) The advisory committee may evaluate and may provide
4-48 comments or recommendations on the feasibility of the state owning,
4-49 constructing, operating, and maintaining flood projects, including
4-50 reservoirs and coastal barriers.

4-51 (i) The board shall provide an annual report to the advisory
4-52 committee on:

4-53 (1) the board's compliance with statewide annual goals
4-54 relating to historically underutilized businesses; and

4-55 (2) the participation level of historically
4-56 underutilized businesses in flood projects that receive money from
4-57 the resiliency fund.

4-58 (j) If the aggregate level of participation by historically
4-59 underutilized businesses in flood projects that receive money from
4-60 the resiliency fund does not meet statewide annual goals adopted
4-61 under Chapter 2161, Government Code, the advisory committee shall
4-62 make recommendations to the board to improve the participation
4-63 level.

4-64 (k) The board shall supply staff support to the advisory
4-65 committee.

4-66 (l) Chapter 2110, Government Code, does not apply to the
4-67 size, composition, or duration of the advisory committee.

4-68 Sec. 16.458. REPORT REQUIRED. (a) In this section, "state
4-69 agency" means:

5-1 (1) a department, commission, board, office, or other
 5-2 agency in the executive branch of state government created by the
 5-3 state constitution or a state statute; and

5-4 (2) a general academic teaching institution as defined
 5-5 by Section 61.003, Education Code.

5-6 (b) A state agency that uses or disburses federal money for
 5-7 flood research, planning, or mitigation projects shall submit a
 5-8 report to the board on a quarterly basis.

5-9 (c) The report must include the following information about
 5-10 federal money used or disbursed for flood research, planning, or
 5-11 mitigation projects:

5-12 (1) the original total of federal money received;

5-13 (2) the amount of the federal money spent or disbursed
 5-14 to date; and

5-15 (3) the eligibility requirements for receiving the
 5-16 federal money.

5-17 Sec. 16.459. APPLICABLE LAW. Subchapter E, Chapter 17,
 5-18 applies to financial assistance made available from the resiliency
 5-19 fund, except that the board may execute contracts as necessary to
 5-20 evidence grant agreements.

5-21 Sec. 16.460. TRANSPARENCY REQUIREMENTS. The board shall
 5-22 post the following information on the board's Internet website
 5-23 regarding the use of the resiliency fund and regularly update the
 5-24 information posted:

5-25 (1) the progress made in developing flood projects
 5-26 statewide;

5-27 (2) a description of each flood project that receives
 5-28 money from the resiliency fund, including:

5-29 (A) the expected date of completion of the flood
 5-30 project;

5-31 (B) the current status of the flood project;

5-32 (C) the proposed benefit of the flood project;

5-33 (D) the initial total cost estimate of the flood
 5-34 project and variances to the initial cost estimate exceeding five
 5-35 percent;

5-36 (E) a listing of the eligible political
 5-37 subdivisions receiving money from the resiliency fund;

5-38 (F) a listing of each political subdivision
 5-39 served by each flood project;

5-40 (G) an estimate of matching funds that will be
 5-41 available for the flood project resulting from the use of the
 5-42 resiliency fund; and

5-43 (H) the status of repayment of each loan provided
 5-44 in connection with a flood project, including an assessment of the
 5-45 risk of default based on a standard risk rating system;

5-46 (3) a description of the point system for prioritizing
 5-47 flood projects established by the board under Sections 16.454 and
 5-48 16.455 and the number of points awarded by the board for each flood
 5-49 project;

5-50 (4) any nonconfidential information submitted to the
 5-51 board as part of an application for funding under this subchapter
 5-52 that is approved by the board;

5-53 (5) the administrative and operating expenses
 5-54 incurred by the board in administering the resiliency fund; and

5-55 (6) any other information required by board rule.

5-56 Sec. 16.461. RULES. The board shall adopt rules necessary
 5-57 to carry out this subchapter, including rules:

5-58 (1) that establish procedures for an application for
 5-59 and for the award of financial assistance;

5-60 (2) that establish the prioritization system for flood
 5-61 projects that receive money from the resiliency fund;

5-62 (3) for the repayment of a loan from the resiliency
 5-63 fund; and

5-64 (4) for the administration of the resiliency fund.

5-65 SECTION 2. Section 251.004(b), Insurance Code, is amended
 5-66 to read as follows:

5-67 (b) Each state fiscal year, the comptroller shall
 5-68 reallocate to the floodplain management account established under
 5-69 Section 16.453 [~~16.3161~~], Water Code, the first \$3.05 million of

6-1 the maintenance taxes collected under Chapter 252 and deposited in
6-2 the general revenue fund.

6-3 SECTION 3. Section 16.3161, Water Code, is repealed.

6-4 SECTION 4. On the effective date of this Act, the Floodplain
6-5 Management Account No. 0330 is transferred to the Texas
6-6 infrastructure resiliency fund as an account of that fund and the
6-7 balance of the Floodplain Management Account No. 0330 is
6-8 transferred to the floodplain management account of the Texas
6-9 infrastructure resiliency fund.

6-10 SECTION 5. (a) Not later than the 90th day after the
6-11 effective date of this Act, the Texas Infrastructure Resiliency
6-12 Fund Advisory Committee shall submit recommendations to the Texas
6-13 Water Development Board on the rules to be adopted by the board
6-14 under Section 16.461, Water Code, as added by this Act.

6-15 (b) Not later than the 90th day after the date the Texas
6-16 Water Development Board receives the recommendations described by
6-17 Subsection (a) of this section, the board shall adopt rules under
6-18 Section 16.461, Water Code, as added by this Act.

6-19 SECTION 6. Contingent on legislation of the 86th
6-20 Legislature, Regular Session, 2019, that requires the creation of a
6-21 state flood plan passing and becoming law, on the date that the
6-22 Texas Water Development Board adopts the initial state flood plan
6-23 in accordance with that law:

6-24 (1) Section 16.455, Water Code, as added by this Act,
6-25 expires; and

6-26 (2) Subchapter L, Chapter 16, Water Code, is amended
6-27 by adding Section 16.4551 to read as follows:

6-28 Sec. 16.4551. FLOOD PLAN IMPLEMENTATION ACCOUNT. (a) The
6-29 flood plan implementation account is an account in the resiliency
6-30 fund.

6-31 (b) The board may use the account only to provide financing
6-32 for projects included in the state flood plan.

6-33 (c) Money from the account may be awarded to several
6-34 eligible political subdivisions for a single flood project.

6-35 SECTION 7. This Act takes effect immediately if it receives
6-36 a vote of two-thirds of all the members elected to each house, as
6-37 provided by Section 39, Article III, Texas Constitution. If this
6-38 Act does not receive the vote necessary for immediate effect, this
6-39 Act takes effect September 1, 2019.

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