

A BILL TO BE ENTITLED

AN ACT

relating to flood control planning and the funding of flood planning, mitigation, and infrastructure projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

SUBCHAPTER L. FLOOD PROJECT FUNDING

Sec. 16.451. DEFINITIONS. In this subchapter:

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

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

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

(A) planning and design activities;

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

(C) construction of structural flood mitigation and drainage infrastructure; and

(D) nonstructural or natural flood control strategies.

(4) "Resiliency fund" means the Texas infrastructure resiliency fund.

1       Sec. 16.452. TEXAS INFRASTRUCTURE RESILIENCY FUND.

2       (a) The Texas infrastructure resiliency fund is a special fund in  
3 the state treasury outside the general revenue fund.

4       (b) The resiliency fund shall be administered by the board  
5 in accordance with this subchapter.

6       (c) The board may invest, reinvest, and direct the  
7 investment of any available money in the resiliency fund as  
8 provided by law for the investment of money.

9       (d) Investment earnings, interest earned on amounts  
10 credited to the resiliency fund, and interest earned on loans made  
11 from the fund shall be deposited to the credit of the fund.

12       Sec. 16.453. FLOODPLAIN MANAGEMENT ACCOUNT. (a) The  
13 floodplain management account is an account of the resiliency fund.

14       (b) The account consists of:

15               (1) money deposited to the credit of the account under  
16 Section 251.004, Insurance Code;

17               (2) money directly appropriated to the board; and

18               (3) money from gifts or grants from the United States  
19 government, local or regional governments, private sources, or  
20 other sources.

21       (c) The board may use the account to provide financing for:

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

23               (2) any other activities related to:

24                       (A) the collection and analysis of flood-related  
25 information;

26                       (B) flood planning, protection, mitigation, or  
27 adaptation;

1           (C) the provision of flood-related information  
2 to the public through educational or outreach programs; or

3           (D) evaluating the response to and mitigation of  
4 flood incidents affecting residential property, including  
5 multifamily units, located in floodplains.

6           Sec. 16.454. HURRICANE HARVEY ACCOUNT. (a) The Hurricane  
7 Harvey account is an account in the resiliency fund.

8           (b) The board may use the account only to provide financing  
9 for flood projects related to Hurricane Harvey. Financing under  
10 this section includes making a:

11           (1) grant, low-interest loan, or zero-interest loan to  
12 an eligible political subdivision to provide nonfederal matching  
13 funds to enable the subdivision to participate in a federal program  
14 for the development of a:

15           (A) hazard mitigation plan, under guidelines  
16 issued by the Federal Emergency Management Agency or the Texas  
17 Division of Emergency Management or the successor in function to  
18 those entities; or

19           (B) public assistance plan, under guidelines  
20 issued by the Federal Emergency Management Agency or the Texas  
21 Division of Emergency Management or the successor in function to  
22 those entities; and

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

1        (c) A grant or loan awarded under this section:

2            (1) may be awarded only after the applicant  
3 demonstrates that any available insurance, other state funds, and  
4 eligible federal funds have been exhausted and that community  
5 development block grant disaster recovery funds from the United  
6 States Department of Housing and Urban Development have been  
7 applied toward the cost of eligible matching funds; and

8            (2) may not provide more than 75 percent of the portion  
9 of the cost of the project that is paid with money other than money  
10 from a federal program.

11        (d) The board shall establish a point system for  
12 prioritizing flood projects for which money from the Hurricane  
13 Harvey account is sought. The system must include a standard for  
14 the board to apply in determining whether a flood project qualifies  
15 for funding at the time the application for funding is filed with  
16 the board.

17        (e) The board shall give the highest consideration in  
18 awarding points to a flood project that will have a substantial  
19 effect, including a flood project that:

20            (1) is recommended or approved by the director of the  
21 Texas Division of Emergency Management or the successor in function  
22 to that entity; and

23            (2) meets an emergency need in a county where the  
24 governor has declared a state of disaster.

25        (f) After review and recommendation by the executive  
26 administrator and with input from the director of the Texas  
27 Division of Emergency Management or the successor in function to

1 that entity, the board may approve an application for financial  
2 assistance under this section only if the board finds that:

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

5 (2) the application demonstrates a sufficient level of  
6 cooperation among applicable political subdivisions and includes  
7 all of the political subdivisions substantially affected by the  
8 flood project; and

9 (3) the taxes or other revenue, or both the taxes and  
10 other revenue, pledged by the applicant, if applicable, will be  
11 sufficient to meet all the obligations assumed by the applicant.

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

16 (h) Money from the account may be awarded to several  
17 eligible political subdivisions for a single flood project.

18 (i) An eligible political subdivision that receives a grant  
19 for a flood project also may receive a loan from the account.

20 (j) This section expires September 1, 2031. The remaining  
21 balance of the account on that date is transferred to the flood plan  
22 implementation account.

23 Sec. 16.455. FLOOD PLAN IMPLEMENTATION ACCOUNT. (a) The  
24 flood plan implementation account is an account in the resiliency  
25 fund.

26 (b) The board may use the account only to make:

27 (1) a grant, low-interest loan, or zero-interest loan

1 to an eligible political subdivision:

2 (A) for a flood project; or

3 (B) to provide matching funds to enable the  
4 subdivision to participate in a federal program for a flood  
5 project;

6 (2) a loan to an eligible political subdivision at or  
7 below market interest rates for the subdivision's planning or  
8 design costs, permitting costs, or other costs associated with  
9 state or federal regulatory activities with respect to a flood  
10 project; and

11 (3) a grant to an eligible political subdivision to  
12 provide matching funds to enable the subdivision to participate in  
13 a federal program for the development of a hazard mitigation plan,  
14 under guidelines issued by the Federal Emergency Management Agency  
15 or the Texas Division of Emergency Management or the successor in  
16 function to those entities.

17 (c) The board shall establish a point system for  
18 prioritizing flood projects for which money from the flood plan  
19 implementation account is sought. The system must include a  
20 standard for the board to apply in determining whether a flood  
21 project qualifies for funding at the time the application for  
22 funding is filed with the board.

23 (d) The board shall give the highest consideration in  
24 awarding points to a flood project that will have a substantial  
25 effect, including a flood project that:

26 (1) is recommended or approved by the director of the  
27 Texas Division of Emergency Management or the successor in function

1 to that entity;

2 (2) meets an emergency need in a county where the  
3 governor has declared a state of disaster;

4 (3) is funded partially through federal matching  
5 funds;

6 (4) includes a component that will increase water  
7 supply; and

8 (5) contains any other factor the board determines is  
9 relevant to the purposes of resiliency.

10 (e) After review and recommendation by the executive  
11 administrator and with input from the director of the Texas  
12 Division of Emergency Management or the successor in function to  
13 that entity, the board may approve an application under this  
14 section only if the board finds that:

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

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

21 (3) the taxes or other revenue, or both the taxes and  
22 other revenue, pledged by the applicant, if applicable, will be  
23 sufficient to meet all the obligations assumed by the applicant;  
24 and

25 (4) any other state funds and eligible federal funds  
26 have been exhausted and that community development block grant  
27 disaster recovery funds from the United States Department of

1 Housing and Urban Development have been applied toward the cost of  
2 eligible matching funds.

3 (f) Principal and interest payments on loans made under  
4 Subsection (b)(2) may be deferred for not more than 10 years or  
5 until construction of the flood project is completed, whichever is  
6 earlier.

7 (g) Money from the account may be awarded to several  
8 eligible political subdivisions for a single flood project.

9 (h) An award issued as a grant may finance not more than 75  
10 percent of the total cost of a flood project.

11 (i) An eligible political subdivision that receives a grant  
12 for a flood project also may receive a loan from the account.

13 Sec. 16.456. FEDERAL MATCHING ACCOUNT. (a) The federal  
14 matching account is an account in the resiliency fund.

15 (b) The board may use the account only to meet matching  
16 requirements for projects funded partially by federal money,  
17 including projects funded by the United States Army Corps of  
18 Engineers.

19 Sec. 16.457. TEXAS INFRASTRUCTURE RESILIENCY FUND ADVISORY  
20 COMMITTEE. (a) The Texas Infrastructure Resiliency Fund Advisory  
21 Committee is composed of the seven members that serve on the State  
22 Water Implementation Fund for Texas Advisory Committee described by  
23 Section 15.438, with the co-presiding officers of that committee  
24 serving as presiding officers of the advisory committee. The  
25 director of the Texas Division of Emergency Management or the  
26 successor in function to that entity serves as a nonvoting member of  
27 the advisory committee, as an additional duty of the director's



1 office.

2 (b) The advisory committee may hold public hearings, formal  
3 meetings, or work sessions. Either co-presiding officer of the  
4 advisory committee may call a public hearing, formal meeting, or  
5 work session of the advisory committee at any time. The advisory  
6 committee may not take formal action at a public hearing, formal  
7 meeting, or work session unless a quorum of the committee is  
8 present.

9 (c) Except as otherwise provided by this subsection, a  
10 member of the advisory committee is not entitled to receive  
11 compensation for service on the committee or reimbursement for  
12 expenses incurred in the performance of official duties as a member  
13 of the committee. Service on the advisory committee by a member of  
14 the senate or house of representatives is considered legislative  
15 service for which the member is entitled to reimbursement and other  
16 benefits in the same manner and to the same extent as for other  
17 legislative service.

18 (d) The advisory committee may submit comments and  
19 recommendations to the board regarding the use of money in the  
20 resiliency fund and for use by the board in adopting rules.

21 (e) The advisory committee shall review the overall  
22 operation, function, and structure of the resiliency fund at least  
23 semiannually and may provide comments and recommendations to the  
24 board on any matter.

25 (f) The advisory committee may adopt rules, procedures, and  
26 policies as needed to administer this section and implement its  
27 responsibilities.

1       (g) The advisory committee shall make recommendations to  
2 the board regarding information on the resiliency fund to be posted  
3 on the board's Internet website.

4       (h) The advisory committee may evaluate and may provide  
5 comments or recommendations on the feasibility of the state owning,  
6 constructing, operating, and maintaining flood projects, including  
7 reservoirs and coastal barriers.

8       (i) The board shall provide an annual report to the advisory  
9 committee on:

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

12           (2) the participation level of historically  
13 underutilized businesses in flood projects that receive money from  
14 the resiliency fund.

15       (j) If the aggregate level of participation by historically  
16 underutilized businesses in flood projects that receive money from  
17 the resiliency fund does not meet statewide annual goals adopted  
18 under Chapter 2161, Government Code, the advisory committee shall  
19 make recommendations to the board to improve the participation  
20 level.

21       (k) The board shall supply staff support to the advisory  
22 committee.

23       (l) Chapter 2110, Government Code, does not apply to the  
24 size, composition, or duration of the advisory committee.

25       Sec. 16.458. REPORT REQUIRED. (a) In this section, "state  
26 agency" means:

27           (1) a department, commission, board, office, or other

1 agency in the executive branch of state government created by the  
2 state constitution or a state statute; and

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

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

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

11 (1) the original total of federal money received;

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

14 (3) the eligibility requirements for receiving the  
15 federal money.

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

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

24 (1) the progress made in developing flood projects  
25 statewide;

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

- 1                   (A) the expected date of completion of the flood  
2 project;
- 3                   (B) the current status of the flood project;
- 4                   (C) the proposed benefit of the flood project;
- 5                   (D) the initial total cost estimate of the flood  
6 project and variances to the initial cost estimate exceeding five  
7 percent;
- 8                   (E) a listing of the eligible political  
9 subdivisions receiving money from the resiliency fund;
- 10                   (F) a listing of each political subdivision  
11 served by each flood project;
- 12                   (G) an estimate of matching funds that will be  
13 available for the flood project resulting from the use of the  
14 resiliency fund; and
- 15                   (H) the status of repayment of each loan provided  
16 in connection with a flood project, including an assessment of the  
17 risk of default based on a standard risk rating system;
- 18                   (3) a description of the point system for prioritizing  
19 flood projects established by the board under Sections 16.454 and  
20 16.455 and the number of points awarded by the board for each flood  
21 project;
- 22                   (4) any nonconfidential information submitted to the  
23 board as part of an application for funding under this subchapter  
24 that is approved by the board;
- 25                   (5) the administrative and operating expenses  
26 incurred by the board in administering the resiliency fund; and
- 27                   (6) any other information required by board rule.

1        Sec. 16.461. RULES. The board shall adopt rules necessary  
2 to carry out this subchapter, including rules:

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

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

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

9                (4) for the administration of the resiliency fund.

10        SECTION 2. Section 251.004(b), Insurance Code, is amended  
11 to read as follows:

12                (b) Each state fiscal year, the comptroller shall  
13 reallocate to the floodplain management account established under  
14 Section 16.453 [~~16.3161~~], Water Code, the first \$3.05 million of  
15 the maintenance taxes collected under Chapter 252 and deposited in  
16 the general revenue fund.

17        SECTION 3. Section 16.3161, Water Code, is repealed.

18        SECTION 4. On the effective date of this Act, the Floodplain  
19 Management Account No. 0330 is transferred to the Texas  
20 infrastructure resiliency fund as an account of that fund and the  
21 balance of the Floodplain Management Account No. 0330 is  
22 transferred to the floodplain management account of the Texas  
23 infrastructure resiliency fund.

24        SECTION 5. (a) Not later than the 90th day after the  
25 effective date of this Act, the Texas Infrastructure Resiliency  
26 Fund Advisory Committee shall submit recommendations to the Texas  
27 Water Development Board on the rules to be adopted by the board

1 under Section 16.461, Water Code, as added by this Act.

2 (b) Not later than the 90th day after the date the Texas  
3 Water Development Board receives the recommendations described by  
4 Subsection (a) of this section, the board shall adopt rules under  
5 Section 16.461, Water Code, as added by this Act.

6 SECTION 6. Contingent on legislation of the 86th  
7 Legislature, Regular Session, 2019, that requires the creation of a  
8 state flood plan passing and becoming law, on the date that the  
9 Texas Water Development Board adopts the initial state flood plan  
10 in accordance with that law:

11 (1) Section 16.455, Water Code, as added by this Act,  
12 expires; and

13 (2) Subchapter L, Chapter 16, Water Code, is amended  
14 by adding Section 16.4551 to read as follows:

15 Sec. 16.4551. FLOOD PLAN IMPLEMENTATION ACCOUNT. (a) The  
16 flood plan implementation account is an account in the resiliency  
17 fund.

18 (b) The board may use the account only to provide financing  
19 for projects included in the state flood plan.

20 (c) Money from the account may be awarded to several  
21 eligible political subdivisions for a single flood project.

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