

BILL ANALYSIS

S.B. 8
By: Perry
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that during the aftermath of Hurricane Harvey, and after recent devastating floods, local, state, and federal stakeholders began a discussion that pointed to the need for a state flood plan to better coordinate flood control planning among watersheds. It has also been noted that a recent state flood assessment report by the Texas Water Development Board pointed to the need for collaboration among communities, projects throughout Texas, and updated mapping techniques that would better assist community planning. S.B. 8 seeks to address these issues by providing a framework for a state flood plan through a network of regional flood planning groups, similar to the regional water supply planning process.

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 rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 1 of this bill.

ANALYSIS

S.B. 8 amends the Water Code to require the Texas Water Development Board (TWDB) to do the following:

- not later than September 1, 2021, designate flood planning regions corresponding to each river basin; and
- not later than September 1, 2021, adopt guidance principles for the regional flood plans, including procedures for amending adopted plans.

The bill authorizes the TWDB, in designating flood planning regions, to divide river basins to avoid having an impracticably large area for efficient planning in a flood planning region.

S.B. 8 requires the TWDB to designate representatives from each flood planning region to serve as the initial flood planning group and authorizes the group to then designate additional representatives to serve on the flood planning group. The bill requires the initial flood planning group to designate additional representatives if necessary to ensure adequate representation from the interests in its region, including the public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities and requires the flood planning group to maintain adequate representation from those interests. The bill, in addition, requires the TWDB, the Texas Commission on Environmental Quality (TCEQ), the General Land Office (GLO), the Parks and Wildlife Department (TPWD), the Department of Agriculture (TDA), the State Soil and Water Conservation Board, and the Texas Division of Emergency Management (TDEM) each to

appoint a representative to serve as an ex officio member of each flood planning group. The bill requires TWDB to provide technical and financial assistance to the flood planning groups.

S.B. 8 requires each regional flood planning group to hold public meetings as provided by TWDB rule to gather from interested persons, including members of the public and other political subdivisions located in that county, suggestions and recommendations as to issues, provisions, projects, and strategies that should be considered for inclusion in a regional flood plan. The bill requires each flood planning group to consider the information collected as such in creating a regional flood plan and sets out requirements for such a plan. The bill requires a flood planning group, after the group prepares a regional flood plan, to hold at least one public meeting in a central location in the flood planning region to accept comments on the regional flood plan and sets out provisions relating to notice of the meeting. The bill requires the flood planning group, after consideration of the comments received at the public meeting, to adopt the regional flood plan and, not later than January 10, 2023, submit the adopted plan to the TWDB. The bill requires the TWDB to make a determination whether the regional flood plan:

- satisfies the requirements for regional flood plans adopted in the guidance principles;
- adequately provides for the preservation of life and property and the development of water supply sources, where applicable; and
- affects a neighboring area.

The bill requires the TWDB to approve a regional flood plan when it satisfies these requirements and does not negatively affect a neighboring area. The bill requires the TWDB, if the TWDB makes a determination that an element of a regional flood plan negatively affects a neighboring area, to coordinate with the affected area to adjust the plan to ensure that no neighboring area is negatively affected by the plan. The bill authorizes a flood planning group to amend a regional flood plan after the plan has been approved by the TWDB according to rules adopted by the TWDB. The bill subjects each flood planning group and committee or subcommittee of a group to state open meetings law and state public information law.

S.B. 8 requires the TWDB, not later than September 1, 2024, and before the end of each successive five-year period after that date, to prepare and adopt a comprehensive state flood plan that incorporates approved regional flood plans. The bill requires the state flood plan to do the following:

- provide for orderly preparation for and response to flood conditions to protect against the loss of life and property;
- be a guide to state and local flood control policy; and
- contribute to water development where possible.

The bill sets out required contents for the state flood plan. The bill requires the TWDB, in coordination with TCEQ, the TDA, the GLO, TPWD, TDEM, and the State Soil and Water Conservation Board, to adopt guidance principles for the state flood plan that reflect the public interest of the entire state. The bill requires the TWDB to review and revise the guidance principles, with input from such agencies, as necessary and at least every fifth year to coincide with the five-year cycle for adoption of a new state flood plan. The bill requires the TWDB, on adoption of a state flood plan, to deliver the plan to the governor, lieutenant governor, speaker of the house of representatives, and appropriate legislative committees and legislative leadership.

S.B. 8 creates the State Flood Plan Implementation Advisory Committee and provides for its six-member composition and operation. The bill requires the advisory committee to review the overall operation, function, and structure of the state flood plan and rules adopted by the TWDB to implement the state flood plan at least semiannually, authorizes the advisory committee to provide comments and recommendations to the TWDB on any matter, and requires the advisory committee to make recommendations to the TWDB regarding information to be posted on the

TWDB website. The bill authorizes the advisory committee to adopt applicable rules, procedures, and policies. The advisory committee is exempt from statutory provisions related to state agency advisory committees as they relate to the size, composition, or duration of the advisory committee. These provisions expire, and the advisory committee is dissolved, on September 1, 2021.

S.B. 8 amends the Agriculture Code to require the State Soil and Water Conservation Board to prepare and adopt a plan describing the repair and maintenance needs of applicable flood control dams and to prepare and adopt a new plan before the end of the 10th year following the adoption of a plan. The bill requires the plan to include projects under the jurisdiction of the board and authorized under certain federal laws. The bill requires the board to deliver the adopted plan to the TWDB and to annually deliver to the TWDB a report regarding progress made on items listed in the plan. The bill requires the board, if an update to the report or plan is necessary before the yearly report or before the end of the 10-year cycle, to deliver to the TWDB an amended report or plan.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.