

## **BILL ANALYSIS**

Senate Research Center  
77R7018 QS-D

S.B. 936  
By: Armbrister  
Natural Resources  
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As Filed

### **DIGEST AND PURPOSE**

Current state law relating to floodplain management and flood insurance references agencies whose names have changed. Also, under current law, there is no specific reference to a county's ability to enforce a floodplain management court order. This is substantiated by language passed during the previous two legislative sessions that allows only three counties to enforce and collect civil penalties for violations of the order. Finally, currently counties may only do the minimum necessary for participation in the National Flood Insurance Program and may not exceed the Federal Emergency Management Agency's minimum requirements. As proposed, S.B. 936 updates enabling legislation regarding references to both federal and state agencies; enables counties to enforce floodplain management court orders; and allows counties to participate in mitigation activities that would reduce susceptibility to flood damage.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the State Board of Insurance is modified in SECTION 4 (Section 16.318, Water Code) of this bill in compliance with conforming changes and granted to the new Texas Department of Insurance, formerly the State Board of Insurance.

Rulemaking authority previously granted to the Commissioner of the General Land Office is modified in SECTION 4 (Section 16.321, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 16.313(2) and (3), Water Code, to redefine "National Flood Insurance Act" and define "director."

SECTION 2. Amends Sections 16.314 and 16.315, Water Code, as follows:

Sec. 16.314. Makes a conforming change.

Sec. 16.315. Authorizes all political subdivisions to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program, including but not limited to certain stated actions.

SECTION 3. Amends Section 16.316(b), Water Code, to require the Texas Natural Resource Conservation Commission (commission), pursuant to the National Flood Insurance Program (NFIP) and state and local efforts complementing the program, to aid, advise, and cooperate with political subdivisions, the Texas Department (rather than State Board) of Insurance, and the Federal Emergency Management Agency (FEMA) when aid, advice, and cooperation are requested or deemed advisable by the commission (rather than the Texas Water Development Board (board)).

SECTION 4. Amends Sections 16.317, 16.318, 16.319, 16.320, and 16.321, Water Code, as follows:

Sec. 16.317. New heading: COOPERATION OF TEXAS DEPARTMENT OF INSURANCE. Makes conforming changes.

Sec. 16.318. Makes a conforming change in granting rulemaking authority to the Texas Department of Insurance, formerly the State Board of Insurance.

Sec. 16.319. Requires that political subdivisions wishing to qualify under NFPA have the authority to do so by complying with the directions of FEMA and by meeting certain stated requirements. Makes conforming changes.

Sec. 16.320. Deletes the text “of 1968 (42 U.S.C. Section 4001 et seq.)” concerning the National Flood Insurance Act. Makes a conforming change.

Sec. 16.321. Deletes text prohibiting rules and regulations adopted by the Commissioner of the General Land Office pursuant to this section from imposing requirements stricter than those established by the federal agency administering the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.). Makes a conforming change.

SECTION 5. Amends Chapter 16I, Water Code, by adding Section 16.3221, as follows:

Sec. 16.3221. CRIMINAL PENALTY. Provides that a person commits an offense that is a Class C misdemeanor if the person violates this subchapter and that each violation of this subchapter and each day of a continuing violation is a separate offense.

SECTION 6. Amends Section 16.323, Water Code, as follows:

Sec. 16.323. New heading: ENFORCEMENT BY POLITICAL SUBDIVISION. Authorizes a political subdivision (rather than a county), if it appears that a person has violated, is violating, or is threatening to violate this subchapter or a rule adopted or order issued under this subchapter, to institute a civil suit in the appropriate (rather than a district) court for certain stated purposes. Makes a conforming change. Deletes existing Subsection (c) regarding restrictions on the application of this section.

SECTION 7. Effective date: September 1, 2001.