HOUSE
RESEARCH
ORGANIZATION bill analysis 4/25/2019

HB 274 (2nd reading)
S. Davis, et al.
(CSHB 274 by Wu)

SUBJECT: Creating disaster reinvestment and infrastructure planning (DRIP) fund

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 24 ayes — Zerwas, Longoria, C. Bell, G. Bonnen, Buckley, Capriglione, Cortez, S. Davis, Hefner, Howard, Jarvis Johnson, Miller, Minjarez, Muñoz, Schaefer, Sheffield, Sherman, Smith, Stucky, Toth, J. Turner, Walle, Wilson, Wu

0 nays

3 absent — M. González, Rose, VanDeaver

WITNESSES: For — Adrian Shelley, Public Citizen; Kenneth Flippin; (*Registered, but did not testify*: Scott Stewart, American Council of Engineering Companies of Texas; Frank McStay, Baylor Scott and White Health; Brie Franco, City of Austin; Guadalupe Cuellar, City of El Paso; Bill Kelly, City of Houston Mayor's Office; Lindsay Munoz, Greater Houston Partnership; Ender Reed, Harris County Commissioners Court; Meghan Weller, HCA Healthcare; Jennifer Emerson, Metropolitan Transit Authority of Harris County, Texas Rural Water Association; Ryan Ambrose, Memorial Herman Health System; Annie Spilman, National Federation of Independent Business; Mel Caraway, North Texas Conference of the United Methodist Church; Jessica Schleifer, Teaching Hospitals of Texas; Ned Muñoz, Texas Association of Builders; Rick Thompson, Texas Association of Counties; Grover Campbell, Texas Association of School Boards; David Matiella, Texas Chapter U.S. Green Building Council; Windy Johnson, Texas Conference of Urban Counties; Marcus Mitias, Texas Health Resources; Carrie Kroll, Texas Hospital Association; Joshua Houston, Texas Impact; Emily Northrop, Texas Impact, Society of Friends; Richard Ertel, Texas Impact, Poverty and Justice Task Force of the Southwestern Texas Synod of the Evangelical Lutheran Church of America; Michelle Romero, Texas Medical Association; Monty Wynn, Texas Municipal League; Perry Fowler, Texas Water Infrastructure Network; Ashley Harris, United Ways of Texas; Dale Bulla; Pat Bulla; Kathi Thomas)

Against — (*Registered, but did not testify*: Calvin Tillman)

On — (*Registered, but did not testify*: Piper Montemayor, Comptroller of Public Accounts; Jeff Walker, Texas Water Development Board)

DIGEST:

CSHB 274 would create the disaster reinvestment and infrastructure planning (DRIP) revolving fund to provide financial assistance to political subdivisions in response to a disaster. The bill would establish a board to administer the DRIP revolving fund, the application process, loan and grant requirements, and the management and investment of the fund.

DRIP board. The bill would establish the disaster reinvestment and infrastructure planning board to administer the DRIP revolving fund, determine the eligibility of applicants for financial assistance, and award grants and loans.

The board would be composed of certain members from the Texas Water Development Board, the Texas Department of Housing and Community Affairs governing board, the Texas Transportation Commission, the Public Safety Commission, and the Texas Commission on Environmental Quality. The board also would include the commissioners of insurance, agriculture, and land, the Health and Human Services Commission's executive commissioner, and the comptroller. Three public members, one each appointed by the governor, lieutenant governor, and House speaker, also would be on the board.

Appointed members would serve staggered six-year terms, with one member's term expiring February 1 of each odd-numbered year. The governor, lieutenant governor, and House speaker would have to appoint public members as soon as practicable after the bill's effective date, and the appointees' terms would expire in 2025, 2023, and 2021, respectively.

The board would be administratively attached to the Texas Water Development Board, which would have to provide office space and administrative support services as necessary to carry out the bill.

DRIP revolving fund. The bill would create the DRIP revolving fund as a special fund outside of the state treasury to be used by the board to provide financial assistance to political subdivisions in response to a disaster. The DRIP board could establish separate accounts in the fund.

The fund would consist of money transferred or deposited to the credit of the fund by law, the proceeds of any state fee or tax statutorily dedicated to the fund, other revenue dedicated by the Legislature, the proceeds of issued bonds, and investment earnings and interest.

The DRIP fund would be kept and held by the Texas Treasury Safekeeping Trust Company. The board would have legal title to money and investments in the fund until the money was dispersed.

Use of funds. The DRIP board by rule would have to establish a revolving loan and grant program to use money from the DRIP fund to provide financial assistance for a public project to rebuild infrastructure damaged or destroyed in a disaster or to construct infrastructure to mitigate damage from a disaster.

The board could use up to 50 percent of money in the DRIP fund to provide loans to political subdivisions located wholly or partly in an area declared a disaster area by the governor and that the Federal Emergency Management Agency (FEMA) determined was eligible to receive financial assistance.

The remainder of money in the DRIP fund could be used to provide loans or grants to:

- a political subdivision in a disaster area that was not eligible for financial assistance through FEMA; or
- a public or private hospital, other than an ambulatory surgical center, that was located in a disaster area and was not eligible to receive federal assistance or private insurance assistance sufficient to restore the hospital to operating function and the closure of

which would cause an imminent threat to public health in the surrounding area, as determined by the Department of State Health Services.

The DRIP board could not use more than 25 percent of the money allocated for the above political subdivisions or hospitals to award grants that assisted with the costs of an infrastructure project, paid or deferred the payment of the principal and interest on a loan from the fund, or extended the amount of time for loan repayment.

The bill would prohibit the board from providing financial assistance to rebuild or construct a privately owned structure.

Money from the fund could be provided only during the period that the governor's disaster declaration was in effect.

Applications. The DRIP board would have to develop and implement an application process for a loan or grant from the DRIP fund. At a minimum, the application would have to include:

- a description of the infrastructure project for which the loan or grant was requested;
- an estimate of the total cost of the project;
- an estimate of the federal funds expected to be received for the project, if any;
- an estimate of the amount of money the applicant had available for project financing, if any; and
- evidence that the applicant had adequate staff, policies, and procedures to complete the project.

CSHB 274 would require the board to adopt a point system to prioritize applications based on the type of infrastructure project and stage of development, the applicant's ability to repay a loan, the availability of other money including state or federal matching funds, the existence of an emergency or imminent threat to public health, and other board criteria. The board would have to provide an expedited procedure for acting on an application. The expedited procedure could not affect an applicant's receipt of federal money.

Loans. CSHB 274 would require a loan made from the DRIP fund to be made at or below market interest rates for a term of no more than 20 years. The principal and interest payments would have to begin by 18 months after the loan originated, and loan proceeds would have to be expended only on a qualified infrastructure project.

The bill would require the DRIP board to provide for interest rates on loans to vary according to risk so that a political subdivision that was likely to suffer significant additional damage in subsequent disasters would pay a significantly higher interest rate.

The DRIP board would credit to the fund all principal and interest payments on a loan from the fund.

Grants. CSHB 274 would prohibit the DRIP board from making a grant to a political subdivision that contained properties with more than one insurance claim for flood damage paid for separate incidents.

The DRIP board would have to suspend the award of grants if the DRIP fund fell below the minimum fund balance established by board rules.

Report. By December 1 of each even-numbered year, the DRIP board would have to prepare and submit to the governor, lieutenant governor, and Legislature a report including the DRIP fund balance, the total dollar amount of disbursements during the previous biennium, and a general description of each project, including the approximate cost.

Management and investment. CSHB 274 would require the Texas Treasury Safekeeping Trust Company to hold and invest the fund for the board, taking into account the purposes for which money could be used.

The bill would state that the overall objective for the investment of the fund was to maintain sufficient liquidity to meet the needs of the fund while striving to preserve its purchasing power. The trust company would have any power necessary to manage and invest fund assets. The trust company could acquire, exchange, sell, or otherwise manage any kind of investment that a prudent investor would acquire or retain, taking into consideration the investment of all assets.

CSHB 274 would allow the trust company to recover the costs incurred in managing and investing funds only from the earnings of the fund. Annually, the trust company would have to audit and report to the board with respect to the investment of the DRIP fund.

The bill would require the trust company to adopt an investment policy for the fund and present the policy to the investment advisory board. The advisory board would have to submit recommendations regarding the policy to the trust company.

The DRIP board would have to provide a forecast of cash flows each year to the trust company and provide updates to the forecasts as appropriate. The trust company would have to disburse money from the fund as directed by the DRIP board.

Appropriation. CSHB 274 would appropriate $1 billion from the Economic Stabilization Fund to the comptroller to credit the DRIP revolving fund. This appropriation would take effect only if the bill was approved by a vote of two-thirds the membership of each house.

Effective date. Except as otherwise provided, the bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 274 would help speed up recovery in Texas in the event of future natural disasters by putting in place a source of funds to help cities and counties with restoring public infrastructure. Currently, while local, state, and federal funds may be allocated to help rebuild public infrastructure after a disaster, it can be months or years before funds are actually available for spending. For example, not all federal funds for 2017's Hurricane Harvey relief have been disbursed. State and local governments cannot be subject to this kind of timetable to begin recovering and rebuilding after a disaster.

The bill would help address this need for immediate action after a disaster by establishing the disaster reinvestment and infrastructure planning (DRIP) fund to provide grants and loans to cities and counties to rebuild after a disaster and to harden infrastructure against future events.

Funding a disaster revolving fund would give the state another tool to help local governments respond to disasters and plan for the future. It is important to have funds set aside specifically for this purpose and to have them ready to be disbursed quickly so that cities and counties do not have to wait while federal funds wind their way through federal bureaucracy or for the Legislature to enter session.

Establishing the DRIP fund would create a prudent and easily accessible source of money to fund disaster response and mitigation in perpetuity, which would complement the Legislature's use of other funds, such as the Economic Stabilization Fund (ESF), which have to be appropriated during legislative sessions. For example, if the DRIP were in existence, it could have been used for Hurricane Harvey rebuilding efforts, to provide matching funds for federal resources, and to help mitigate future disasters.

Crediting the DRIP fund with a one-time appropriation from the ESF would have a significant impact because the funds would provide both loans and grants. Loans would be repaid and the funds could be used again, keeping the DRIP fund going. The fund would have the flexibility to make grants if circumstances warranted, such as the need to protect public health by helping rebuild a hospital that was not eligible for other funds and did not have enough insurance coverage to rebuild. The bill also would allow the state to invest a portion of the funds from the ESF to maintain the DRIP fund's purchasing power and grow the amount against inflation and future disasters.

Additionally, Congress is considering legislation that would allocate money to states for revolving funds to assist with disaster recovery and mitigation. Establishing the DRIP fund outside of the state treasury while such federal legislation is pending would position Texas to take advantage of federal dollars if the measure is passed.

The DRIP fund would be similar to the state's use of bond funds for the State Water Implementation Fund for Texas, which helps local governments fund projects in the state water plan.

OPPONENTS SAY:

CSHB 274 could be unnecessary as the state has the Economic Stabilization Fund available in the case of a disaster. In combination with HJR 145 by S. Davis, which would amend the Texas Constitution to enable the sale of state bonds for the disaster relief and infrastructure planning fund, the bill could add new general obligation bond debt to the state's growing debt problem. The state should maintain its budgeting flexibility and address its needs through revenue available for any purpose rather than use bonds proceeds restricted for a specific use.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of $6 million to general revenue related funds and $1.1 billion to the Economic Stabilization Fund through fiscal 2020-21.