

SUBJECT: Providing financial assistance for nature-based infrastructure projects.

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — T. King, Harris, Bowers, Kacal, Larson, Paul, Price, Walle

1 nay — Wilson

2 absent — Lucio, Ramos

WITNESSES: For — Elizabeth Arceneaux; David Batts; (*Registered, but did not testify*: Scott Moorhead, Audubon Texas; Jill Boullion, Bayou Land Conservancy; Daniel Womack, Dow Inc.; Kirby Brown, Ducks Unlimited; Gavin Massingill, Edwards Aquifer Authority; Anna Farrell-Sherman, Environment Texas; Judith McGeary, Farm and Ranch Freedom Alliance; Cyrus Reed, Lone Star Chapter Sierra Club; Bill Kelly, City of Houston Mayor's Office; Adrian Shelley, Public Citizen; Brian Sledge, San Antonio River Authority; Vanessa MacDougal; Suzanne Mitchell)

Against — None

On — Jeff Walker, Texas Water Development Board

DIGEST: CSHB 2350 would establish the water resource and restoration program and set requirements for the program's content, funding, and application procedures.

Establishment of program. The Texas Water Development Board (TWDB) would be required to establish and administer the water resource restoration program to assist in enhancing water quality in the state through the provision of financial assistance to political subdivisions for locally directed projects. TWDB would be required to establish a process by which a political subdivision could combine a project funded through a state revolving fund with a project under the program so that the total cost of both projects did not exceed the cost of the project funded through the state revolving fund.

Program requirements. A proposed project could include certain practices and infrastructure relating to nature-based infrastructure and stormwater management, including practices that reduced impervious cover in a watershed, increased water infiltration and retention, implemented green streets in public rights-of-way, among others.

A proposed project would be prohibited from including certain forms of infrastructure or projects, including:

- passive recreation facilities;
- non-permeable surface parking lots;
- stormwater control, treatment, and conveyance systems that were not nature-based;
- hardening, channelizing, dredging, or straightening streams; and
- supplemental environmental projects required as a part of a consent decree.

A project could not include the acquisition of property, an interest in property, or improvements to property through the use of eminent domain.

Applications. An application for financial assistance administered through the water resource restoration program would be required to include a copy of a resolution approving the proposed project adopted by the governing body of a municipality or special purpose district or the commissioners court of a county in which the proposed project was to be located.

When passing on an application for financial assistance for water quality enhancement purposes, TWDB would have to consider whether the political subdivision proposed a project through the water resource restoration program.

An application for the financing of a project under the bill would have to include a viability assessment that included the ability of the applicant to provide proper oversight and management through a certified operator and

the financial ability of the users to support the long-term maintenance of the project.

Funding. To the extent not prohibited by TWDB rule, any additional state revolving fund established to provide financial assistance for water pollution control could be used to provide financial assistance for projects under the water resource restoration program. TWDB also could use water quality enhancement funds to provide assistance to political subdivisions for projects proposed under the water resource restoration program.

If there was insufficient money available to fund all applications for financial assistance for water quality enhancement purposes, TWDB would give preference to applications for political subdivisions that proposed a project through the water resource restoration program that provided a significant improvement in the relevant watershed or that affected a disadvantaged community. TWDB also would have to adopt rules to establish a means of prioritizing projects in disadvantaged communities and include certain criteria specified in the bill to determine whether a political subdivision seeking financing was a disadvantaged community.

Other provisions. TWDB would be required to adopt rules necessary for the implementation and administration of the program by September 1, 2022.

The bill would take effect September 1, 2021.

SUPPORTERS
SAY:

CSHB 2350 would encourage the adoption and implementation of nature-based infrastructure by creating the water resource restoration program to provide state funding for this purpose. To receive funding under current state programs, a nature-based infrastructure project is required to comprise at least 30 percent of the total cost of an infrastructure project to be used for flood mitigation purposes. Most nature-based infrastructure projects are relatively small and do not meet this threshold, making it difficult to obtain funds for these projects. Establishing a state funding program for these projects and allowing their combination with other

funded projects would be an effective solution to this issue.

Nature-based infrastructure provides another method of flood mitigation. By channeling stormwater through natural processes, nature-based infrastructure allows stormwater to be contained, drained, and filtered. Such infrastructure also provides other benefits, such as enhanced aquifer recharge, reduced heat islands, and more scenic cityscapes. The program established by the bill would replace the piecemeal efforts at implementing effective, cost-efficient nature-based infrastructure, often on the initiative of nonprofit organizations, with a more comprehensive approach on the municipal or county level. CSHB 2350 also would provide benefits to disadvantaged communities by prioritizing nature-based infrastructure projects in such communities, which have been subject to consistent issues with flood mitigation and suffer the worst effects of flood events.

Discussion about the bill's effect on interest rates that the Texas Water Development Board (TWDB) relies on to meet debt service obligations is ongoing, and a solution that addresses TWDB concerns and increases the adoption of nature-based infrastructure in Texas is anticipated.

CRITICS
SAY:

CSHB 2350 would authorize the combination of a project under the water resource restoration program with a project funded through a state revolving fund so that the total cost of both projects did not exceed the cost of the project funded through the state revolving fund. This could result in a reduction in the amount of interest that could be collected from these loans, which could affect the ability of the Texas Water Development Board (TWDB) to meet debt service obligations and fund other water quality enhancement programs.

TWDB receives federal funding that allows it to provide financing for a wide range of water quality infrastructure projects. General appropriations for TWDB are not sufficient to cover fund matching, so the board issues bonds to meet the matching requirements. Further federal regulations require TWDB to pay the debt service on these match bonds from interest earnings made on loans for water quality enhancement projects. Forgoing

additional interest earnings could limit TWDB's ability to repay the bonds required to meet the fund matching requirement. Together, these unintended consequences could result in reductions to existing allocations that target disadvantaged, rural, or small communities as well as emergency relief or green projects.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of \$985,945 to general revenue related funds through fiscal 2022-23.