

ASSEMBLY BILL

No. 70

Introduced by Assembly Member Jones

December 4, 2006

An act to add Chapter 6 (commencing with Section 8460) to Part 2 of Division 5 of the Water Code, relating to flood liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 70, as introduced, Jones. Flood liability.

Existing law, under various circumstances, subjects a public entity or an employee of a public entity to liability for property damage or personal injury caused by or from floods or floodwaters.

This bill would subject, in addition to any other legal liability imposed by law, a city or county to joint liability, whether or not the city or county directly participates in the operation or maintenance of a flood control project, for property damage sustained in a flood by approving new development in an undeveloped area that is protected by a project levee where flood levels are anticipated to exceed 3 feet for a 200-year flood event, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 6 (commencing with Section 8460) is
- 2 added to Part 2 of Division 5 of the Water Code, to read:

CHAPTER 6. FLOOD LIABILITY

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8460. (a) In addition to any other legal liability imposed by law, a city or county is subject to joint liability, whether or not the city or county directly participates in the operation or maintenance of a flood control project, for property damage sustained in a flood by approving new development in an undeveloped area that is protected by a project levee where flood levels are anticipated to exceed three feet for a 200-year flood event based on the 2002 comprehensive study by the United States Army Corps of Engineers or as that determination may be subsequently revised by the department or the Reclamation Board.

(b) This section does not prevent a local public entity from approving new developments in an undeveloped area.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Project levee" means any levee that is part of the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations within the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6.

(2) "Undeveloped area" means an area devoted to agricultural use, as defined in Section 51201 of the Government Code, or open-space land, as defined in Section 65560 of the Government Code.