

Introduced by Senator MachadoDecember 4, 2006

An act relating to flood management.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as introduced, Machado. Flood management.

The existing Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. That existing act requires the compilation of a state plan of flood control.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$5,388,000,000 to fund projects and expenditures relating to safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts.

This bill would make legislative findings and declarations regarding the necessity of developing a comprehensive integrated flood policy and flood management program that addresses all aspects of flood management, clarifying the roles and responsibilities of the state, local flood management agencies, cities and counties, developers, and property owners as part of an integrated flood policy, and integrating the flood-related funding authorized by those bond acts with the integrated flood policy and flood management program. The bill would

state the intent of the Legislature to establish and clarify the roles and responsibilities of specified entities for managing flood risk and to invest bond funds made available by the bond acts consistent with those roles and responsibilities.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) To successfully improve state flood policy and reduce flood
4 risks, it is necessary to develop a comprehensive integrated flood
5 policy and flood management program that addresses all aspects
6 of flood management.

7 (b) Further, as part of an integrated flood policy, it is necessary
8 to clarify the roles and responsibilities of the state, local flood
9 management agencies, cities and counties, and developers and
10 other property owners.

11 (c) It is also necessary to integrate the flood-related funding
12 authorized by the Disaster Preparedness and Flood Prevention
13 Bond Act of 2006 (Chapter 1.699 (commencing with Section
14 5096.800) of Division 5 of the Public Resources Code) and the
15 Safe Drinking Water, Water Quality and Supply, Flood Control,
16 River and Coastal Protection Bond Act of 2006 (Division 43
17 (commencing with Section 75001) of the Public Resources Code)
18 with the integrated flood policy and flood management program.
19 As part of this integration of policy with financing, it is important
20 that cost-sharing rules for flooding be consistent statewide.

21 (d) In expending the bond funds, the priority should be to protect
22 current populations, public safety, and public safety infrastructure.

23 (e) Many urban populations have an inadequate level of flood
24 protection. At the 4th Biennial CALFED Science Conference 2006,
25 credible evidence was presented suggesting that a 500-year level
26 of flood protection is the minimum level of protection that should
27 be considered for urbanized areas.

28 (f) The integrated strategy for improving the level of flood
29 protection should include changes in land use and land use
30 planning. Changes in land use planning requirements should begin
31 as soon as practicable. The start date for these changes will be

1 dependent upon a number of events, including, but not limited to,
2 all of the following:

3 (1) When new flood risk maps are available.

4 (2) When the Department of Water Resources and the
5 Reclamation Board have completed their assessments of the current
6 performance of state flood control.

7 (3) When the Department of Water Resources and the
8 Reclamation Board have amended the state plan of flood control
9 to add or remove facilities.

10 (4) When the Department of Water Resources and the
11 Reclamation Board have identified and adopted a schedule for
12 implementing structural and nonstructural improvements to the
13 state plan of flood control that improve the operation of the system
14 and reduce flood risk systemwide.

15 (5) When the Department of Water Resources, local flood
16 management agencies, and cities and counties have identified and
17 adopted a schedule for implementing structural and nonstructural
18 improvements to the state plan of flood control that improve the
19 operation of the system and reduce flood risk systemwide.

20 SEC. 2. It is the intent of the Legislature to establish and clarify
21 the roles and responsibilities of specified entities for managing
22 flood risk and to invest bond funds made available by the Disaster
23 Preparedness and Flood Prevention Bond Act of 2006 (Chapter
24 1.699 (commencing with Section 5096.800) of Division 5 of the
25 Public Resources Code) and the Safe Drinking Water, Water
26 Quality and Supply, Flood Control, River and Coastal Protection
27 Bond Act of 2006 (Division 43 (commencing with Section 75001)
28 of the Public Resources Code) consistent with those roles and
29 responsibilities. It is the further intent of the Legislature that the
30 roles and responsibilities for the state, local flood agencies, cities
31 and counties, and developers and property sellers should be as
32 follows:

33 (a) The state should be responsible for all of the following:

34 (1) Administering and implementing the state plan of flood
35 control, including, but not limited to, all of the following:

36 (A) Documenting the historic state plan of flood control,
37 including the design performance for each facility and the estimated
38 current performance for each facility.

39 (B) Updating and revising the historic state plan of flood control,
40 including, but not limited to, removing nonperforming or

1 unnecessary facilities and adding existing nonproject facilities and
2 potential new systems improvements, floodways, bypasses, or
3 other improvements. The action to add or remove a facility should
4 be based on an assessment of the contribution the facility makes
5 to system performance and the current size of the population
6 protected by the facility.

7 (C) Bringing all facilities of the state plan of flood control up
8 to the design performance standards. The state should pay 100
9 percent of the nonfederal capital costs to bring the facilities up to
10 design standards. The state should prioritize projects based on the
11 current size of the population and the public safety infrastructure
12 protected by each facility. The state should adopt and update
13 project schedules through a public process.

14 (D) Identifying and implementing structural and nonstructural
15 improvements to the state plan of flood control that improve the
16 operation of the system and reduce flood risk systemwide. The
17 state should pay 100 percent of the nonfederal capital costs for
18 systemwide improvements. The state should prioritize system
19 improvements based on current population and the public safety
20 infrastructure protected by structural and nonstructural
21 improvements. The state should adopt and update system
22 improvement schedules through a public process.

23 (E) Partnering with local flood management agencies, cities,
24 and counties to develop and implement structural and nonstructural
25 projects to provide 500-year protection to currently urbanized
26 areas. The state should pay 50 to 70 percent of the nonfederal
27 capital costs pursuant to Section 12585.7 of the Water Code. The
28 state should adopt and update project schedules through a public
29 process.

30 (F) Assisting local flood management agencies, cities, and
31 counties to develop and implement structural and nonstructural
32 projects to reduce flood risks to currently nonurbanized areas. The
33 state should provide funds to develop or implement those projects
34 only if funds are available after first meeting the needs of currently
35 urbanized areas. The state should pay 50 to 70 percent of the
36 nonfederal capital costs pursuant to Section 12585.7 of the Water
37 Code. The state should adopt and update project schedules through
38 a public process.

39 (G) Improving public trust resources and beneficial uses of
40 water if those improvements also contribute to reducing flood

1 risks. Improving public trust resources and beneficial uses of water
2 means actions beyond those required for environmental mitigation
3 and other regulatory requirements. For projects associated with
4 reducing flood risks systemwide, the state should pay 100 percent
5 of the nonfederal capital costs. For projects to improve local flood
6 protection, the state should pay 70 percent of the nonfederal capital
7 costs pursuant to Section 12585.7 of the Water Code. The state
8 should adopt and update project schedules through a public process.

9 (2) Ensuring the state plan of flood control is properly
10 maintained, including, but not limited to, all of the following:

11 (A) Establishing maintenance standards for facilities of the state
12 plan of flood control, including, but not limited to, standards and
13 responsibilities for erosion sites. The state should develop and
14 adopt these standards through a public process.

15 (B) Ensuring that local maintenance districts perform adequate
16 maintenance by annually evaluating the adequacy of the
17 maintenance activities for each district.

18 (C) Establishing maintenance districts where local levee
19 maintenance districts are not performing their maintenance
20 activities appropriately. The state should establish criteria for
21 determining if a levee maintenance district is not performing
22 adequately. The state should develop and adopt these standards
23 through a public process. Maintenance districts should be formed
24 pursuant to Chapter 4.5 (commencing with Section 12878) of Part
25 6 of Division 6 of the Water Code.

26 (D) Collaborating with interested local flood management
27 agencies to develop a natural community conservation plan for
28 levee maintenance in accordance with Chapter 10 (commencing
29 with Section 2800) of Division 3 of the Fish and Game Code.

30 (3) Developing and providing technical information and support,
31 including, but not limited to, all of the following:

32 (A) Collaborating with local flood agencies and land use
33 authorities to reduce flood risks to current and future populations
34 and public safety infrastructure.

35 (B) Commenting on all local general plans, general plan
36 amendments, and other land use related environmental documents
37 regarding flood risks within areas protected by the state plan of
38 flood control that are proposed for development.

39 (C) Developing and adopting new building standards for new
40 structures constructed in deep flood plains.

- 1 (4) Assisting with flood fights when requested by a local flood
2 agency, in accordance with existing law.
- 3 (5) Providing relocation assistance or other cost-effective
4 strategies for reducing flood risk to existing economically
5 disadvantaged communities located in nonurbanized areas.
- 6 (b) A local flood agency should be responsible for all of the
7 following:
 - 8 (1) Maintaining the levees and other flood management facilities
9 within its jurisdiction.
 - 10 (A) Ensuring that levee maintenance is consistent with state
11 standards. A local flood agency should provide necessary
12 documentation of its maintenance activities to the state annually.
 - 13 (B) If interested, a local flood agency should collaborate with
14 the state and other interested local flood management agencies to
15 develop a natural community conservation plan for levee
16 maintenance in accordance with Chapter 10 (commencing with
17 Section 2800) of Division 3 of the Fish and Game Code.
 - 18 (2) Improving local flood protection, including, but not limited
19 to, all of the following:
 - 20 (A) Partnering with the state to develop and implement structural
21 and nonstructural projects to provide 500-year protection to
22 currently urbanized areas.
 - 23 (B) Where locally desirable, partnering with the state to reduce
24 flood risk to permanently nonurbanized areas.
 - 25 (3) Developing and providing technical information and support,
26 including, but not limited to, all of the following:
 - 27 (A) Collaborating with cities and counties within its jurisdiction
28 to identify parcels that may be protected by the state plan of flood
29 control and other flood management facilities, and, if known, the
30 extent of the protection.
 - 31 (B) Collaborating with local land use authorities to reduce flood
32 risks to current and future populations and public safety
33 infrastructure.
 - 34 (C) Commenting on all local general plans, general plan
35 amendments, and other land use related environmental documents
36 regarding flood risks within areas protected by facilities owned or
37 maintained by the local flood agency that are proposed for
38 development.
 - 39 (D) Collaborating with cities and counties within its jurisdiction
40 to develop flood emergency plans.

1 (4) Monitoring the condition of its facilities during high flow
2 events, providing the initial flood fight response, and, when
3 conditions dictate, requesting additional assistance from the state,
4 in accordance with current law.

5 (5) Collaborating with the state and cities and counties to provide
6 relocation assistance or other cost-effective strategies for reducing
7 flood risk to existing economically disadvantaged communities
8 located in nonurbanized areas.

9 (c) A city, county, or city and county should be responsible for
10 all of the following:

11 (1) Addressing flood risks explicitly in all land use planning
12 and permitting, including, but not limited to, all of the following:

13 (A) By a date certain, revising general plans to exclude any new
14 residential development in any area with less than 500-year
15 protection.

16 (B) By a date certain, denying certification of any new
17 subdivision unless the subdivision is within an area with 500-year
18 protection or more.

19 (C) Enforcing state building standards for new structures
20 constructed in deep flood plains.

21 (2) Developing and providing technical information and support,
22 including, but not limited to, all of the following:

23 (A) Collaborating with local flood agencies to identify parcels
24 that may be protected by the state plan of flood control or other
25 flood management facilities, and, if known, the extent of the
26 protection.

27 (B) Annually notifying property owners and mortgage holders
28 that the parcel may be protected by a flood facility, directing them
29 to further information about degree of protection, recommending
30 insurance, and advising on the consequences of failing to have
31 insurance in the event of a flood.

32 (C) With respect to a county, collaborating with cities within
33 its jurisdiction to develop flood emergency plans.

34 (3) Collaborating with the state and local flood management
35 agencies to provide relocation assistance or other cost-effective
36 strategies for reducing flood risk to existing economically
37 disadvantaged communities located in nonurbanized areas.

38 (d) Developers and other property owners should be responsible
39 for both of the following:

- 1 (1) If a parcel has been identified by the city or county as being
- 2 protected by the state plan of flood control or other flood
- 3 management facilities, following the advice provided in the
- 4 notification and buying flood insurance.
- 5 (2) If a parcel has been identified by the city or county as being
- 6 protected by the state plan of flood control or other flood
- 7 management facilities, a developer or other property owner selling
- 8 a parcel should be responsible for all of the following:
- 9 (A) Disclosing to potential buyers that the parcel may be
- 10 protected by a flood facility.
- 11 (B) Directing potential buyers to further information about the
- 12 degree of protection.
- 13 (C) Recommending insurance.
- 14 (D) Advising on the consequences of failing to have insurance
- 15 in the event of a flood.