

AMENDED IN ASSEMBLY SEPTEMBER 5, 2007

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN SENATE APRIL 25, 2007

AMENDED IN SENATE APRIL 9, 2007

AMENDED IN SENATE MARCH 26, 2007

SENATE BILL

No. 5

Introduced by Senator Machado
(Principal coauthor: Senator Florez)
(Principal coauthor: Assembly Member Wolk)
(Coauthor: Senator Steinberg)
(Coauthor: Assembly Member Laird)

December 4, 2006

An act to add Sections 65007, 65302.9, 65860.1, 65865.5, 65962, and 66474.5 to, the Government Code, to add Section 50465 to the Health and Safety Code, and to add Chapter 4 (commencing with Section 8200) to Part 1 of, and to add Part 6 (commencing with Section 9600) to, Division 5 of, the Water Code, relating to flood management.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as amended, Machado. Flood management.

(1) The Planning and Zoning Law requires a city, county, and city and county to adopt a comprehensive, long-term general plan for the physical development of the city, county, or city and county that addresses a number of elements. The law authorizes the legislative body of a city or county to adopt zoning ordinances regulating, among other

things, the use of buildings, structures, and land. The law authorizes a city or county to enter into a development agreement with a person having a legal or equitable interest in real property for the development of the property.

This bill would require each city, including a charter city, and county within the Sacramento-San Joaquin Valley, within 24 months of the adoption of a specified flood protection plan by the Central Valley Flood Protection Board, to amend its general plan to include data and analysis contained in that flood protection plan, goals and policies for the protection of lives and property that will reduce the risk of flood damage, and related feasible implementation measures. The bill would require each city, including a charter city, and county within the Sacramento-San Joaquin Valley, within 36 months of the adoption of that flood protection plan but not more than 12 months after the amendment of the general plan under the bill's provisions, to amend its zoning ordinance so that it is consistent with the general plan, as amended. By establishing requirements on cities and counties, the bill would impose a state-mandated local program.

On the effective date of those amendments, a city, including a charter city, and county within the Sacramento-San Joaquin Valley would be prohibited from entering a development agreement for any property that is located within a flood hazard zone unless the city or county makes certain findings, based on substantial evidence. On the effective date of those amendments, a city, including a charter city, and county within the Sacramento-San Joaquin Valley would also be prohibited from approving any discretionary permit or entitlement, or any ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone unless the city or county makes certain findings, based on substantial evidence.

(2) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map, or a parcel map for which a tentative map was not required under certain circumstances.

The bill, after the amendments to the general plan and the zoning ordinance described in (1) have become effective, would require the legislative body of each city, including a charter city, and county within the Sacramento-San Joaquin Valley to deny approval of a tentative map, or a parcel map for which a tentative map was not required, for any subdivision that is located within a flood hazard zone unless the city or county makes specified findings, based on substantial evidence.

(3) The Department of Water Resources performs various flood control activities throughout the state. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River and San Joaquin River, their tributaries, and related areas.

This bill would require the department, on or before December 31, 2010, to prepare a strategic flood protection plan for the Sacramento-San Joaquin Valley. The department would be required to prepare a plan identified as the Central Valley Flood Protection Plan not later than January 1, 2012, and the Central Valley Flood Protection Board would be required to adopt the plan not later than July 1, 2012. The bill would require the plan to include specified components, including a description of the Sacramento-San Joaquin River Flood Management System, a description of the facilities included in the State Plan of Flood Control, an evaluation of the structural improvements necessary to bring each of the facilities of the State Plan of Flood Control to within its design standard, and a list of facilities recommended to be removed from the State Plan of Flood Control. The plan would be required to be updated every 5 years.

The bill would authorize the department to implement certain flood protection improvements before the adoption of the plan if the Director of Water Resources makes a specified determination. Upon the adoption of the plan by the board, certain facilities would be deemed to be a part of the Sacramento-San Joaquin River Flood Management System, and the board would be required to take action necessary to remove facilities from the State Plan of Flood Control that are recommended for removal in the plan.

The bill would require the department, on or before January 1, 2009, to propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where levels are anticipated to exceed 3 feet for the 200-year flood event. The department would be required to develop a cost-sharing formula for specified bond funds for repairs or improvements of facilities included in the plan. ~~The bill would require the department, on or before September 1, 2010, and annually thereafter, to provide written notice to each landowner whose property is determined to be entirely or partially within a flood hazard zone.~~

The bill would require each county, consistent with the adoption of the plan, to collaborate with cities within its jurisdiction to develop flood emergency plans. The bill would require each city, including a charter city, and county, consistent with the adoption of the plan, to collaborate with the state and local flood management agencies to provide cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas and to develop funding mechanisms to finance local flood protection responsibilities. By establishing new land use planning requirements on cities and counties, the bill would impose a state-mandated local program. The bill would authorize a local agency to prepare a local plan of flood protection in according with specified requirements.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) The bill would become operative only if AB-5 162 and SB 17 are enacted and become operative.

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

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

1 SECTION 1. Section 65007 is added to the Government Code,
2 to read:
3 65007. As used in this title, the following terms have the
4 following meanings, unless the context requires otherwise:
5 (a) “Adequate progress” means ~~that the local flood management~~
6 ~~agency has provided information to the Department of Water~~
7 ~~Resources and the Central Valley Flood Protection Board that is~~
8 ~~sufficient to determine that substantial completion of the flood~~
9 ~~protection system meets all of the following:~~
10 (1) The total project scope, schedule, and cost of the completed
11 flood protection system have been identified and the flood control
12 project has been fully designed and permitted to meet the *developed*
13 *to meet the* appropriate standard of protection.

1 (2) Revenues sufficient to fund each year of the project schedule
2 developed in paragraph (1) have been identified and, in any given
3 year and consistent with that schedule, at least 90 percent of the
4 revenues scheduled to have been received by that year have been
5 appropriated and are currently being expended.

6 (3) Critical features of the flood protection system are under
7 construction, and each critical feature is progressing as indicated
8 by the actual expenditure of the construction budget funds.

9 (4) The city or county has not been responsible for any
10 significant delay in the completion of the system.

11 (5) *The local flood management agency shall provide the*
12 *Department of Water Resources and the Central Valley Flood*
13 *Protection Board with the information specified in this subdivision*
14 *sufficiently to determine substantial completion of the required*
15 *flood protection. The local flood management agency shall*
16 *annually report to the Central Valley Flood Protection Board on*
17 *their the efforts in working toward completion of the flood*
18 *protection system.*

19 (b) *“Central Valley Flood Protection Plan” has the same*
20 *meaning as that set forth in Section 9610 of the Water Code.*

21 ~~(b)~~

22 (c) *“Developed area” has the same meaning as that set forth in*
23 *Section 59.1 of Title 44 of the Code of Federal Regulations.*

24 ~~(c)~~

25 (d) *“Flood hazard zone” means an area subject to flooding that*
26 *is delineated as either a special hazard area or an area of moderate*
27 ~~*or minimal*~~ *hazard on an official flood insurance rate map issued*
28 ~~*by the Federal Emergency Management Agency or an area*~~
29 ~~*identified by the Department of Water Resources in the Central*~~
30 ~~*Valley Flood Protection Plan as an area of statewide interest.*~~ *The*
31 *identification of flood hazard zones does not imply that areas*
32 *outside the flood hazard zones, or uses permitted within flood*
33 *hazard zones, will be free from flooding or flood damage.*

34 ~~(d)~~

35 (e) *“Nonurbanized area” means a developed area or an area*
36 *outside a developed area in which there are less than 10,000*
37 *residents.*

38 (f) *“Project levee” means any levee that is part of the facilities*
39 *of the State Plan of Flood Control, as defined in Section 5096.805*
40 *of the Public Resources Code.*

1 ~~(e)~~

2 (g) “Sacramento-San Joaquin Valley” means any lands in the
3 bed or along or near the banks of the Sacramento River or San
4 Joaquin River, or any of their tributaries or connected therewith,
5 or upon any land adjacent thereto, or within any of the overflow
6 basins thereof, or upon any land susceptible to overflow therefrom.
7 The Sacramento-San Joaquin Valley does not include lands lying
8 within the Tulare Lake basin, *including the Kings River*.

9 (h) “*State Plan of Flood Control*” has the same meaning as
10 that set forth in subdivision (j) of Section 5096.805 of the Public
11 Resources Code.

12 ~~(f)~~

13 (i) “Urban area” means a developed area in which there are
14 10,000 residents or more.

15 ~~(g)~~

16 (j) “Urbanizing area” means a developed area or an area outside
17 a developed area that is planned or anticipated to have 10,000
18 residents or more *within the next 10 years*.

19 ~~(h)~~

20 (k) “Urban level of flood protection” means the level of
21 protection that is necessary to withstand flooding that has a
22 1-in-200 chance of occurring in any given year *using criteria*
23 *consistent with, or developed by, the Department of Water*
24 *Resources*.

25 SEC. 2. Section 65302.9 is added to the Government Code, to
26 read:

27 65302.9. (a) Within 24 months of the adoption of the Central
28 Valley Flood Protection Plan by the Central Valley Flood
29 Protection Board pursuant to Section 9612 of the Water Code,
30 each city and county within the Sacramento-San Joaquin Valley,
31 shall amend its general plan to contain all of the following:

32 (1) The data and analysis contained in the Central Valley Flood
33 Protection Plan, including, but not limited to, the locations of the
34 facilities of the State Plan of Flood Control, the locations of other
35 flood management facilities, the locations of the real property
36 protected by those facilities, and the locations of flood hazard
37 zones.

38 (2) Goals, policies, and objectives, based on the data and
39 analysis identified pursuant to paragraph (1), for the protection of
40 lives and property that will reduce the risk of flood damage.

1 (3) Feasible implementation measures designed to carry out the
2 goals, policies, and objectives established pursuant to paragraph
3 (2).

4 (b) To assist each city or county in complying with this section,
5 the Central Valley Flood Protection Board, the Department of
6 Water Resources, and local flood agencies shall collaborate with
7 cities or counties by providing them with information and other
8 technical assistance.

9 (c) In implementing this section, each city and county, both
10 general law and charter, within the Sacramento-San Joaquin Valley,
11 shall comply with this article, including, but not limited to, Sections
12 65300.5, 65300.7, 65300.9, and 65301.

13 (d) Notwithstanding any other provision of law, this section
14 applies to all cities, including charter cities, and counties within
15 the Sacramento-San Joaquin Valley. The Legislature finds and
16 declares that flood protection in the Sacramento and San Joaquin
17 Rivers drainage areas is a matter of statewide concern and not a
18 municipal affair as that term is used in Section 5 of Article XI of
19 the California Constitution.

20 SEC. 3. Section 65860.1 is added to the Government Code, to
21 read:

22 65860.1. (a) Within 36 months of the adoption Central Valley
23 Flood Protection Plan by the Central Valley Flood Protection Board
24 pursuant to Section 9612 of the Water Code, but not more than 12
25 months after the amendment of its general plan pursuant to Section
26 65302.9, each city and county within the Sacramento-San Joaquin
27 Valley shall amend its zoning ordinance so that it is consistent
28 with the general plan, as amended.

29 (b) Notwithstanding any other provision of law, this section
30 applies to all cities, including charter cities, and counties within
31 the Sacramento-San Joaquin Valley. The Legislature finds and
32 declares that flood protection in the Sacramento and San Joaquin
33 Rivers drainage areas is a matter of statewide concern and not a
34 municipal affair as that term is used in Section 5 of Article XI of
35 the California Constitution.

36 SEC. 4. Section 65865.5 is added to the Government Code, to
37 read:

38 65865.5. (a) Notwithstanding any other provision of law, after
39 the amendments required by Section 65302.9 and 65860.1 have
40 become effective, the legislative body of a city or county within

1 the Sacramento-San Joaquin Valley shall not enter into a
2 development agreement for any property that is located within a
3 flood hazard zone unless the city or county finds, based on
4 substantial evidence in the record, one of the following:

5 (1) The facilities of the State Plan of Flood Control or other
6 flood management facilities protect the property to the urban level
7 of flood protection in urban and urbanizing areas or the national
8 Federal Emergency Management Agency standard of flood
9 protection in nonurbanized areas.

10 (2) The city or county has imposed conditions on the
11 development agreement that will protect the property to the urban
12 level of flood protection in urban and urbanizing areas or the
13 national Federal Emergency Management Agency standard of
14 flood protection in nonurbanized areas.

15 (3) The local flood management agency has made adequate
16 progress on the construction of a flood protection system which
17 will result in flood protection equal to or greater than the urban
18 level of flood protection in urban or urbanizing areas or the national
19 Federal Emergency Management Agency standard of flood
20 protection in nonurbanized areas for property located within a
21 flood hazard zone, intended to be protected by the system. *For*
22 *urban and urbanizing areas protected by project levees, the urban*
23 *level of flood protection shall be achieved by 2025.*

24 (b) The effective date of amendments referred to in this section
25 shall be the date upon which the statutes of limitation specified in
26 subdivision (c) of Section 65009 have run or, if the amendments
27 and any associated environmental documents are challenged in
28 court, the validity of the amendments and any associated
29 environmental documents has been upheld in a final decision.

30 (c) *Nothing in this section shall be construed to change or*
31 *diminish existing requirements of local floodplain management*
32 *laws, ordinances, resolutions, or regulations necessary to local*
33 *agency participation in the national flood insurance program.*

34 SEC. 5. Section 65962 is added to the Government Code, to
35 read:

36 65962. (a) Notwithstanding any other provision of law, after
37 the amendments required by Sections 65302.9 and 65860.1 have
38 become effective, each city and county within the Sacramento-San
39 Joaquin Valley shall not approve any discretionary permit or other
40 discretionary entitlement, or any ministerial permit that would

1 result in the construction of a new residence, for a project that is
2 located within a flood hazard zone unless the city or county finds,
3 based on substantial evidence in the record, one of the following:

4 (1) The facilities of the State Plan of Flood Control or other
5 flood management facilities protect the project to the urban level
6 of flood protection in urban and urbanizing areas or the national
7 Federal Emergency Management Agency standard of flood
8 protection in nonurbanized areas.

9 (2) The city or county has imposed conditions on the permit or
10 discretionary entitlement that will protect the project to the urban
11 level of flood protection in urban and urbanizing areas or the
12 national Federal Emergency Management Agency standard of
13 flood protection in nonurbanized areas.

14 (3) The local flood management agency has made adequate
15 progress on the construction of a flood protection system which
16 will result in flood protection equal to or greater than the urban
17 level of flood protection in urban or urbanizing areas or the national
18 Federal Emergency Management Agency standard of flood
19 protection in nonurbanized areas for property located within a
20 flood hazard zone, intended to be protected by the system. *For*
21 *urban and urbanizing areas protected by project levees, the urban*
22 *level of flood protection shall be achieved by 2025.*

23 (b) The effective date of amendments referred to in this section
24 shall be the date upon which the statutes of limitation specified in
25 subdivision (c) of Section 65009 have run or, if the amendments
26 and any associated environmental documents are challenged in
27 court, the validity of the amendments and any associated
28 environmental documents has been upheld in a final decision.

29 (c) *Nothing in this section shall be construed to change or*
30 *diminish existing requirements of local floodplain management*
31 *laws, ordinances, resolutions, or regulations necessary to local*
32 *agency participation in the national flood insurance program.*

33 SEC. 6. Section 66474.5 is added to the Government Code, to
34 read:

35 66474.5. (a) Notwithstanding any other provision of law, after
36 the amendments required by Sections 65302.9 and 65860.1 have
37 become effective, the legislative body of each city and county
38 within the Sacramento-San Joaquin Valley shall deny approval of
39 a tentative map, or a parcel map for which a tentative map was not
40 required, for any subdivision that is located within a flood hazard

1 zone unless the city or county finds, based on substantial evidence
2 in the record, one of the following:

3 (1) The facilities of the State Plan of Flood Control or other
4 flood management facilities protect the subdivision to the urban
5 level of flood protection in urban and urbanizing areas or the
6 national Federal Emergency Management Agency standard of
7 flood protection in nonurbanized areas.

8 (2) The city or county has imposed conditions on the subdivision
9 that will protect the project to the urban level of flood protection
10 in urban and urbanizing areas or the national Federal Emergency
11 Management Agency standard of flood protection in nonurbanized
12 areas.

13 (3) The local flood management agency has made adequate
14 progress on the construction of a flood protection system which
15 will result in flood protection equal to or greater than the urban
16 level of flood protection in urban or urbanizing areas or the national
17 Federal Emergency Management Agency standard of flood
18 protection in nonurbanized areas for property located within a
19 flood hazard zone, intended to be protected by the system. *For*
20 *urban and urbanizing areas protected by project levees, the urban*
21 *level of flood protection shall be achieved by 2025.*

22 (b) The effective date of amendments referred to in this section
23 shall be the date upon which the statutes of limitation specified in
24 subdivision (c) of Section 65009 have run or, if the amendments
25 and any associated environmental documents are challenged in
26 court, the validity of the amendments and any associated
27 environmental documents has been upheld in a final decision.

28 (c) *Nothing in this section shall be construed to change or*
29 *diminish existing requirements of local floodplain management*
30 *laws, ordinances, resolutions, or regulations necessary to local*
31 *agency participation in the national flood insurance program.*

32 SEC. 7. Section 50465 is added to the Health and Safety Code,
33 to read:

34 50465. (a) On or before January 1, 2009, the Department of
35 Water Resources shall propose for adoption and approval by the
36 California Building Standards Commission updated requirements
37 to the California Building Standards Code for construction in areas
38 protected by the facilities of the Central Valley Flood Protection
39 Plan where flood levels are anticipated to exceed three feet for the
40 200-year flood event. The amendments to the California Building

1 Standards Code shall be sufficient to reduce the risk of flood
2 damage and to protect *life, safety, and* the construction in those
3 areas.

4 (b) Before the department proposes the amendments to the
5 California Building Standards Code required pursuant to
6 subdivision (a), the department shall consult with the Central
7 Valley Flood Protection Board, the Division of the State Architect,
8 and the Office of the State Fire Marshal.

9 SEC. 8. Chapter 4 (commencing with Section 8200) is added
10 to Part 1 of Division 5 of the Water Code, to read:

11
12 CHAPTER 4. LOCAL PLANS OF FLOOD PROTECTION
13

14 8200. This chapter shall be known and may be cited as the
15 Local Flood Protection Planning Act.

16 8201. (a) A local agency may prepare a local plan of flood
17 protection in accordance with this chapter.

18 (b) A local plan of flood protection shall include all of the
19 following:

20 (1) A strategy to meet the urban level of flood protection,
21 including planning for residual flood risk and system resiliency.

22 (2) Identification of all types of flood hazards.

23 (3) Identification and risk assessment of the various facilities
24 that provide flood protection for flood hazard areas, for current
25 and future land uses.

26 (4) Identification of current and future flood corridors.

27 (5) Identification of needed improvements and costs of those
28 improvements to the flood protection facilities that are necessary
29 to meet flood protection standards ~~for urban, rural, and small~~
30 ~~communities.~~

31 (6) An emergency response and evacuation plan for flood-prone
32 areas.

33 (7) A strategy to achieve multiple benefits, including flood
34 protection, groundwater recharge, ecosystem health, and reduced
35 maintenance costs over the long term.

36 (8) A long-term funding strategy for improvement and ongoing
37 maintenance and operation of flood protection facilities.

38 (c) *A local agency that is not a city or county that prepares a*
39 *plan pursuant to this chapter must consult with the cities and*
40 *counties that have jurisdiction over the planning area to assure*

1 *that the local plan of flood protection is consistent with local*
2 *general plans.*

3 *(d) Plans prepared pursuant to this chapter, within the*
4 *Sacramento-San Joaquin Valley as defined by Section 9602, shall*
5 *be consistent with the Central Valley Flood Protection Plan*
6 *pursuant to Section 9610.*

7 SEC. 9. Part 6 (commencing with Section 9600) is added to
8 Division 5 of the Water Code, to read:

9

10 PART 6. CENTRAL VALLEY FLOOD PROTECTION

11

12 CHAPTER 1. GENERAL PROVISIONS

13

14 9600. This act shall be known and may be cited as the Central
15 Valley Flood Protection Act of 2008.

16 9601. The Legislature finds and declares all of the following:

17 (a) The Central Valley of California is experiencing
18 unprecedented development, resulting in the conversion of
19 historically agricultural lands and communities to densely
20 populated residential and urban centers.

21 (b) The Legislature recognizes that by their nature, levees, which
22 are earthen embankments typically founded on fluvial deposits,
23 cannot offer complete protection from flooding, but can decrease
24 its frequency.

25 (c) The Legislature recognizes that the level of flood protection
26 afforded rural and agricultural lands by the original flood control
27 system would not be adequate to protect those lands if they are
28 developed for urban uses, and that a dichotomous system of flood
29 protection for urban and rural lands has developed through many
30 years of practice.

31 (d) The Legislature further recognizes that levees built to reclaim
32 and protect agricultural land may be inadequate to protect urban
33 development unless those levees are significantly improved.

34 (e) Cities and counties rely upon federal flood plain information
35 when approving developments, but the information available is
36 often out-of-date and the flood risk may be greater than that
37 indicated using available federal information.

38 (f) *The Legislature recognizes that the current federal flood*
39 *standard is not sufficient in protecting urban and urbanizing areas*
40 *within flood prone areas throughout the Central Valley.*

1 ~~(f)~~

2 (g) Linking land use decisions to flood risk and flood protection
3 estimates comprises only one element of improving lives and
4 property in the Central Valley. Federal, state, and local agencies
5 may construct and operate flood protection facilities to reduce
6 flood risks, but flood risks will nevertheless remain for those who
7 choose to reside in Central Valley flood plains. Making those flood
8 risks more apparent will help ensure that Californians make careful
9 choices when deciding whether to build homes or live in Central
10 Valley flood plains, and if so, whether to prepare for flooding or
11 maintain flood insurance.

12 9602. Unless the context requires otherwise, the definitions
13 set forth in this section govern the construction of this ~~article~~ *part*.

14 (a) “Board” means the Central Valley Flood Protection Board.

15 (b) “Plan” means the Central Valley Flood Protection Plan.

16 (c) “*Project levee*” means any levee that is part of the facilities
17 of the State Plan of Flood Control, as defined in Section 5096.805
18 of the Public Resources Code.

19 ~~(e)~~

20 (d) “Public safety infrastructure” means public safety
21 infrastructure necessary to respond to a flood emergency, including,
22 but not limited to, street and highway evacuation routes, public
23 utilities necessary for public health and safety, including drinking
24 water and wastewater treatment facilities, and hospitals.

25 ~~(d)~~

26 (e) “Sacramento-San Joaquin Valley” means any lands in the
27 bed or along or near the banks of the Sacramento River or San
28 Joaquin River, or any of their tributaries or connected therewith,
29 or upon any land adjacent thereto, or within any of the overflow
30 basins thereof, or upon any land susceptible to overflow therefrom.
31 The Sacramento-San Joaquin Valley does not include lands lying
32 within the Tulare Lake basin, *including the Kings River*.

33 ~~(e)~~

34 (f) “State Plan of Flood Control” has the meaning set forth in
35 subdivision (j) of Section 5096.805 of the Public Resources Code.

36 ~~(f)~~

37 (g) “System” means the Sacramento-San Joaquin River Flood
38 Management System described in Section 9611.

39 (h) “Urban area” has the same meaning as that set forth in
40 subdivision (k) of Section 5096.805 of the Public Resources Code.

1 (g)

2 (i) “Urban level of flood protection” means the level of
3 protection that is necessary to withstand flooding that has a
4 1-in-200 chance of occurring in any given year *using criteria*
5 *consistent with, or developed by, the department.*

6 9603. (a) ~~Nothing~~ *The Central Valley Flood Protection Plan*
7 *shall be a descriptive document, and neither the plan nor anything*
8 *in this part shall be construed to expand the liability of the state*
9 *for the operation or maintenance of any flood management facility*
10 *beyond the scope of the State Plan of Flood Control, except as*
11 *specifically determined by the board pursuant to Section 9611.*
12 ~~The~~ *Neither the development nor the adoption of the Central Valley*
13 *Flood Protection Plan shall not be construed to constitute any*
14 *commitment by the state to provide, to continue to provide, or to*
15 *maintain at, or to increase flood protection to, any particular level.*

16 (b) The Central Valley Flood Protection Plan reflects a
17 systemwide approach to protecting the lands currently protected
18 from flooding by existing facilities of the State Plan of Flood
19 Control. Any flood protection benefits accruing to lands or
20 communities outside the State Plan of Flood Control are incidental
21 and shall not constitute any commitment by the state to provide,
22 to continue to provide, or to maintain at, or to increase flood
23 protection to, any particular level.

24
25 CHAPTER 2. PLAN DEVELOPMENT

26
27 ~~9610. On or before December 31, 2010, the department shall~~
28 ~~prepare a strategic flood protection plan for the Sacramento-San~~
29 ~~Joaquin Valley, consistent with this part. The board shall make~~
30 ~~relevant maps available to the public and shall post these maps on~~
31 ~~its Internet Web site.~~

32 9610. (a) *By July 1, 2008, the department shall develop*
33 *preliminary maps for the 100 and 200 year floodplains protected*
34 *by project levees. The 100 year floodplain maps shall be prepared*
35 *using criteria developed or accepted by the Federal Emergency*
36 *Management Agency (FEMA).*

37 (1) *The department shall use available information from the*
38 *2002 Sacramento-San Joaquin River Basin Comprehensive Study,*
39 *preliminary and regulatory FEMA flood insurance rate maps,*

1 recent floodplain studies and other sources to compile preliminary
2 maps.

3 (2) The department shall provide the preliminary maps to cities
4 and counties within the Sacramento-San Joaquin Valley for use
5 as best available information relating to flood protection.

6 (3) The department shall post this information on the boards
7 internet website and may periodically update the maps as
8 necessary.

9 (b) By July 1, 2008, the department shall give notice to cities
10 in the Sacramento-San Joaquin Valley outside areas protected by
11 project levees regarding maps and other information as to flood
12 risks available from the Federal Emergency Management Agency
13 or other federal, state or local agency.

14 (c) On or before December 31, 2010, the department shall
15 prepare a status report on the progress and development of the
16 Central Valley Flood Protection Plan pursuant to Section 9612.
17 The department shall post this information on the board's Internet
18 Web site, and make it available to the public.

19 9611. The Sacramento-San Joaquin River Flood Management
20 System comprises all of the following:

21 (a) The facilities of the State Plan of Flood Control as that plan
22 may be amended pursuant to this part.

23 (b) Any existing dam, levee, or other flood management facility
24 that is not part of the State Plan of Flood Control if the board
25 determines, upon recommendation of the department ~~in the plan~~,
26 that the facility does one or more of the following:

27 (1) Provides significant systemwide benefits for managing flood
28 risks within the Sacramento-San Joaquin Valley.

29 (2) Protects urban areas within the Sacramento-San Joaquin
30 Valley.

31 (c) Upon completion of the Central Valley Flood Protection
32 Plan pursuant to this part, the department may identify and propose
33 to the board additional structural and nonstructural facilities that
34 may become facilities of the State Plan of Flood Control, consistent
35 with the Central Valley Flood Protection Plan. The board may add
36 those facilities to the State Plan of Flood Control based on a
37 determination showing how the facility accomplishes the purposes
38 identified in subdivision (b).

39 (d) For the purposes of subdivision (c), facilities that may
40 become facilities of the State Plan of Flood Control include

1 bypasses, floodway corridors, flood plain storage, or other projects
2 that expand the capacity of the flood protection system in the
3 Sacramento-San Joaquin Valley to provide flood protection.

4 9612. (a) The department shall prepare, and the board shall
5 adopt, a plan identified as the Central Valley Flood Protection Plan
6 in accordance with this part.

7 (b) No later than January 1, 2012, the department shall prepare
8 the Central Valley Flood Protection Plan in accordance with this
9 part, and shall transmit the plan to the board, which shall adopt
10 the plan no later than July 1, 2012.

11 (c) The board shall hold at least two hearings to receive
12 comments on the proposed plan. At least one hearing shall be held
13 in the Sacramento Valley and at least one hearing shall be held in
14 the San Joaquin Valley. The board shall also accept comments in
15 writing with regard to the proposed plan.

16 (d) The board may make changes to the proposed plan to resolve
17 issues raised in the hearings or to respond to comments received
18 by the board. The board shall publish its proposed changes to the
19 proposed plan at least two weeks before adopting the plan.

20 (e) The plan shall be updated in subsequent years ending in ~~0~~
21 ~~and 5 2 and 7.~~

22 (f) The department or the board may appoint one or more
23 advisory committees to assist in the preparation of the plan. If the
24 department or the board appoints one or more advisory committees,
25 the advisory committee or committees shall include representation
26 by interested organizations.

27 ~~(g) Prior to adopting the plan required pursuant to subdivision~~
28 ~~(a), the department shall prepare and certify an environmental~~
29 ~~impact report for the plan pursuant to Division 13 (commencing~~
30 ~~with Section 21000) of the Public Resources Code.~~

31 9613. (a) Consistent with subdivision (b) of Section 5096.821
32 of the Public Resources Code, the department may implement
33 flood protection improvements for urban areas protected by
34 facilities of the State Plan of Flood Control before the adoption of
35 Central Valley Flood Protection Plan if the director determines,
36 in writing, that all of the following apply:

37 (1) The improvements are necessary ~~to address an urgent and~~
38 ~~significant risk of flooding~~ and require state funding before the
39 completion of the Central Valley Flood Protection Plan prepared
40 pursuant to Section 9612.

1 (2) The improvements will reduce or avoid risk to human life
2 in one or more urban areas ~~and do not transfer significant flood~~
3 ~~risks to other urban areas.~~

4 (3) The improvements will not impair or impede future changes
5 to regional flood protection or the Central Valley Flood Protection
6 Plan.

7 (4) The improvements will be maintained by a local agency that
8 has committed sufficient funding to maintain both the existing and
9 improved facilities of the State Plan of Flood Control.

10 (5) The affected cities, counties, and other public agencies *will*
11 have sufficient revenue resources for the operation and maintenance
12 of the facility.

13 (6) Upon the allocation of funds for a project, the proposed
14 project is ready for implementation.

15 ~~(7) The improvements may provide public benefits in addition~~
16 ~~to flood protection.~~

17 ~~(8)~~

18 (7) The improvements comply with existing law.

19 (b) The flood protection improvements authorized by this section
20 may include improvements to specific facilities of the State Plan
21 of Flood Control or acquisition of flood easements for floodways
22 that support facilities of the State Plan of Flood Control to increase
23 levels of flood protection for urban areas in accordance with
24 subdivision (b) of Section 5096.821 of the Public Resources Code.

25 (c) The department and the board shall investigate, ~~develop,~~
26 ~~and establish a floodway or bypass, acquire land, or construct one~~
27 ~~or more facilities to~~ *and evaluate the feasibility of potential*
28 *bypasses or floodways that would* significantly reduce flood stage
29 in the San Joaquin River Watershed, upstream and south of
30 Paradise Cut.

31 9614. The plan shall include all of the following:

32 (a) A description of the Sacramento-San Joaquin River Flood
33 Management System and the cities and counties included in the
34 system.

35 (b) A description of the performance of the system and the
36 challenges to modifying the system to provide appropriate levels
37 of flood protection *using available information.*

38 (c) A description of the facilities included in the State Plan of
39 Flood Control, including all of the following:

- 1 (1) The precise location and a brief description of each facility,
- 2 a description of the population and property protected by the
- 3 facility, the system benefits provided by the facility, if any, and a
- 4 brief history of the facility, including the year of construction,
- 5 major improvements to the facility, and any failures of the facility.
- 6 (2) The design ~~performance~~ *capacity* of each facility.
- 7 (3) A description and evaluation of the performance of each
- 8 facility, including the following:
- 9 (A) An evaluation of failure risks due to each of the following:
- 10 (i) Overtopping.
- 11 (ii) Under seepage *and seepage*.
- 12 (iii) Structural failure.
- 13 ~~(iv) Seismic events.~~
- 14 ~~(v) Other sources of risk~~
- 15 *(iv) Other sources of risk, including seismic risks, that the*
- 16 *department or the board determines are applicable.*
- 17 (B) A description of any uncertainties regarding performance
- 18 capability, including uncertainties arising from the need for
- 19 additional engineering evaluations or uncertainties arising from
- 20 changed conditions such as changes in estimated channel
- 21 capacities.
- 22 (d) A description of each existing dam that is not part of the
- 23 State Plan of Flood Control that provides either significant
- 24 systemwide benefits for managing flood risks within the
- 25 Sacramento-San Joaquin Valley or protects urban areas within the
- 26 Sacramento-San Joaquin Valley, ~~including all of the following~~
- 27 ~~information:~~
- 28 ~~(1) The precise location and a brief description of each facility,~~
- 29 ~~a description of the population and property protected by the~~
- 30 ~~facility, and a brief history of the facility, including the year of~~
- 31 ~~construction, major improvements to the facility, and any~~
- 32 ~~uncontrolled releases of the facility.~~
- 33 ~~(2) The standard project flood event upon which the flood~~
- 34 ~~operation rules were based.~~
- 35 ~~(3) A description of downstream conditions upon which the~~
- 36 ~~flood operation rules were based, including estimated channel~~
- 37 ~~capacities, level of urban development, and other conditions that~~
- 38 ~~the department or the board determines to be relevant.~~
- 39 ~~(4) A description of changes in downstream conditions since~~
- 40 ~~the flood operation rules were established.~~

1 (e) A description of each existing levee and other flood
2 management facility not described in subdivision (d) that is not
3 part of the State Plan of Flood Control that provides either
4 significant systemwide benefits for managing flood risks within
5 the Sacramento-San Joaquin Valley or protects urban areas within
6 the Sacramento-San Joaquin Valley, including all of the following
7 information: an urban area as defined by subdivision (k) of Section
8 5096.805 of the Public Resources Code.

9 (1) ~~The precise location and a brief description of each facility,
10 a description of the population and property protected by the
11 facility, the system benefits provided by the facility, if any, and a
12 brief history of the facility, including the year of construction,
13 major improvements to the facility, and any failures of the facility.~~

14 (2) ~~The design performance of each facility.~~

15 (3) ~~A description and evaluation of the performance of each
16 facility, including the following:~~

17 (A) ~~An evaluation of failure risks due to each of the following:~~

18 (i) ~~Overtopping.~~

19 (ii) ~~Under seepage.~~

20 (iii) ~~Structural failure.~~

21 (iv) ~~Seismic events.~~

22 (v) ~~Other sources of risk that the department or the board
23 determines are applicable.~~

24 (B) ~~A description of any uncertainties regarding performance
25 capability, including uncertainties arising from the need for
26 additional engineering evaluations or uncertainties arising from
27 changed conditions such as changes in estimated channel
28 capacities.~~

29 (f) A description of the probable impacts of projected climate
30 change, projected land use patterns, and other potential flood
31 management challenges on the ability of the system to provide
32 adequate levels of flood protection.

33 (g) An evaluation of the structural improvements *and repairs*
34 necessary to bring each of the facilities of the State Plan of Flood
35 Control to within its design standard. The evaluation shall include
36 a prioritized list of recommended actions necessary to bring each
37 facility not identified in subdivision (h) to within its design
38 standard.

39 (h) The evaluation shall include a list of facilities recommended
40 to be removed from the State Plan of Flood Control. For each

1 facility recommended for removal, the evaluation shall identify
2 both of the following:

3 (1) The reasons for proposing the removal of the facility from
4 the State Plan of Flood Control.

5 (2) Any additional recommended actions associated with
6 removing the facility from the State Plan of Flood Control.

7 (i) ~~An evaluation~~—A *description* of both structural and
8 nonstructural methods for providing an urban level of flood
9 protection to ~~currently urbanized areas in the Sacramento-San~~
10 ~~Joaquin Valley~~ *current urban areas where an urban area means*
11 *the same as set forth in subdivision (k) of Section 5096.805 of the*
12 *Public Resources Code*. ~~The evaluation shall include a prioritized~~
13 ~~list of recommended actions~~ *description shall also include a list*
14 *of recommended next steps* to improve urban flood protection.

15 (j) ~~An evaluation~~—A *description* of structural and nonstructural
16 means for enabling *or improving* systemwide riverine ecosystem
17 function, including, but not limited to, establishment of riparian
18 habitat and seasonal inundation of available flood plains where
19 feasible.

20 9615. For the purposes of preparing the plan, the department
21 shall collaborate with the United States Army Corps of Engineers
22 and the owners and operators of flood management facilities.

23 9616. (a) The plan shall include a description of both structural
24 and nonstructural means for improving the performance and
25 elimination of deficiencies of levees, weirs, bypasses, and facilities,
26 including facilities of the State Plan of Flood Control, and,
27 wherever feasible, ~~a prioritized description of actions intended to~~
28 meet multiple objectives, including each of the following:

29 (1) Reduce the risk to human life, health, and safety from
30 flooding, *including protection of public safety infrastructure*.

31 (2) Expand the capacity of the flood protection system in the
32 Sacramento-San Joaquin Valley to either reduce floodflows or
33 convey floodwaters away from urban areas.

34 (3) Link the flood protection system with the water supply
35 system.

36 (4) Reduce flood risks in currently nonurbanized areas.

37 (5) Increase the engagement of local agencies willing to
38 participate in improving flood protection, ensuring a better
39 connection between state flood protection decisions and local land
40 use decisions.

- 1 (6) Improve flood protection for urban areas to the urban level
- 2 of flood protection.
- 3 ~~(7) Provide sufficient flood protection for small communities~~
- 4 ~~and rural areas to a standard deemed appropriate by the department.~~
- 5 ~~(8)~~
- 6 (7) Promote natural dynamic hydrologic and geomorphic
- 7 processes.
- 8 ~~(9)~~
- 9 (8) Reduce damage from flooding.
- 10 ~~(10)~~
- 11 (9) Increase and improve the quantity, diversity, and connectivity
- 12 of riparian, wetland, flood plain, and shaded riverine aquatic
- 13 habitats, including the agricultural and ecological values of these
- 14 lands.
- 15 ~~(11)~~
- 16 (10) Minimize the flood management system operation and
- 17 maintenance requirements.
- 18 ~~(12)~~
- 19 (11) Promote the recovery and stability of native species
- 20 populations and overall biotic community diversity.
- 21 ~~(13)~~
- 22 (12) Identify opportunities and incentives for expanding or
- 23 increasing use of floodway corridors.
- 24 ~~(14)~~
- 25 (13) Provide a feasible, comprehensive, and long-term financing
- 26 plan for implementing the plan.
- 27 ~~(15) Identify the responsibilities of federal, state, regional, and~~
- 28 ~~local agencies for flood protection in the Sacramento-San Joaquin~~
- 29 ~~Valley.~~
- 30 ~~(16)~~
- 31 (14) Identify opportunities for reservoir reoperation in
- 32 conjunction with groundwater flood storage.
- 33 (b) The plan shall include a prioritized list of recommended
- 34 ~~actions and a schedule of implementation for all the recommended~~
- 35 ~~actions to reduce these~~ *to reduce* flood risks and meet the objectives
- 36 described in subdivision (a).

CHAPTER 3. PLAN IMPLEMENTATION

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9620. Upon the adoption of the plan by the board, all of the following apply:

(a) The facilities identified pursuant to subdivision (e) (a) of Section 9614 shall be deemed to be part of the system.

(b) The board shall ~~take all actions necessary~~ *act on the recommendations* to remove facilities identified pursuant to subdivision (h) of Section 9614 from the State Plan of Flood Control.

~~(c) The department shall prepare, and the board shall adopt, a schedule of implementation for all of the recommended actions. The schedule shall include a proposed funding plan.~~

(c) The department shall develop a recommended schedule and funding plan to implement the recommendations of the plan. To develop the recommended schedule and funding plan, the department may collaborate with local and federal agencies.

9621. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each county shall collaborate with cities within its jurisdiction to develop flood emergency plans within 24 months of the adoption of the plan.

9622. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to provide relocation assistance or other cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas.

9623. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to develop funding mechanisms to finance local flood protection responsibilities ~~within 24 months of the adoption of the plan.~~ *by January 1, 2010.*

9624. Notwithstanding any other provision of law, this part applies to all cities, including charter cities, and counties included in the plan pursuant to Section 9614. The Legislature finds and declares that flood protection in the Sacramento-San Joaquin Valley is a matter of statewide concern and not a municipal affair as that

1 term is used in Section 5 of Article XI of the California
2 Constitution.

3 9625. (a) By January 1, 2010, the department shall develop a
4 ~~cost-sharing formula~~ *cost-sharing formulas*, as needed, for funds
5 made available by the Disaster Preparedness and Flood Prevention
6 Bond Act of 2006 (Chapter 1.699 (commencing with Section
7 5096.800) of Division 5 of the Public Resources Code) and the
8 Safe Drinking Water, Water Quality and Supply, Flood Control,
9 River and Coastal Protection Bond Act of 2006 (Division 43
10 (commencing with Section 75001) of the Public Resources Code)
11 for repairs or improvements of facilities included in the plan to
12 determine the local share of the cost of design and construction.

13 (b) *The cost-share formulas developed by the department shall*
14 *be established pursuant to Section 12585.7.*

15 ~~(b) In developing a cost-share formula~~

16 (c) *In developing cost-share formulas*, the department shall
17 consider the ability of local governments to pay their share of the
18 capital costs of the project.

19 ~~(e) Prior to finalizing a cost-share formula~~

20 (d) *Prior to finalizing cost-share formulas*, the department shall
21 conduct public meetings to consider public comments. The
22 department shall post the draft cost-share formula on its Internet
23 Web site at least 30 days before the public meetings. To the extent
24 feasible, the department shall provide outreach to disadvantaged
25 communities to promote access and participation in the meetings.

26 ~~9626. (a) On or before September 1, 2010, and on or before~~
27 ~~September 1 of each year thereafter, the department shall provide~~
28 ~~written notice to each landowner whose property is determined to~~
29 ~~be entirely or partially within a flood hazard zone.~~

30 ~~(b) The notice shall include statements regarding all of the~~
31 ~~following:~~

32 ~~(1) The property is located behind a levee.~~

33 ~~(2) Levees reduce, but do not eliminate, the risk of flooding and~~
34 ~~are subject to catastrophic failure.~~

35 ~~(3) If available, the level of flood risk as described in the plan.~~

36 ~~(4) The state recommends that property owners in a flood hazard~~
37 ~~zone obtain flood insurance, such as insurance provided by the~~
38 ~~Federal Emergency Management Agency through the National~~
39 ~~Flood Insurance Program.~~

40 ~~(5) Information about purchasing federal flood insurance.~~

1 ~~(6) The Internet address of the Web site that contains the~~
2 ~~information described in the plan.~~

3 ~~(7) Any other information determined by the department to be~~
4 ~~relevant.~~

5 ~~(e) Each county, with assistance from the department, shall~~
6 ~~annually provide to the department, by electronic means, public~~
7 ~~records consisting of lists of names and addresses of property~~
8 ~~owners in any flood hazard zone identified by the department~~
9 ~~located in that county.~~

10 ~~(d) Notwithstanding any other provision of the law, the~~
11 ~~department may enter into contracts with private companies to~~
12 ~~provide the notices required by this section.~~

13 SEC. 10. If the Commission on State Mandates determines
14 that this act contains costs mandated by the state, reimbursement
15 to local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.

18 SEC. 11. This act shall become operative only if Assembly
19 Bill 5 162 and Senate Bill 17 of the 2007–08 Regular Session of
20 the Legislature are enacted and become operative.