AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN SENATE JULY 6, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 1165

Introduced by Assembly Member Yamada

February 27, 2009

An act to amend Section 65007 of the Government Code, and to amend Sections 8502, 8559, 8560, 8610.5, and 8709.4 of, to add Sections 8709.5, 8709.6, 8709.7, 12645, 12646, and 12647 to, to add the heading of Article 2 (commencing with Section 12645) to Chapter 2 of Part 6 of Division 6 of, to repeal Sections 8562 and 8577 of, to repeal the heading of Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of, and to repeal and amend Sections 8522.3, 8522.5, 8523, and 8578 of, the Water Code, relating to flood protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1165, as amended, Yamada. Flood protection.

(1) Existing law prohibits the legislative body of a city or county within the Sacramento-San Joaquin Valley, after the adoption of specified amendments to the applicable general plan or zoning ordinance, from entering into a development agreement for property that is located within a flood hazard zone, unless the legislative body makes one of several possible determinations, one of which is a determination that the local flood management agency has made

adequate progress on the construction of a flood protection system. Existing law, after the adoption of those amendments, also conditions the approval of a discretionary entitlement or ministerial permit that would result in the construction of a new residence for a project that is located within a flood hazard zone, and the approval of a tentative map, or a parcel map as specified, for a subdivision that is located within a flood hazard zone, upon the legislative body making one of several possible determinations, one of which is a determination that the local flood management agency has made adequate progress on the construction of a flood protection system. Existing law defines "adequate progress" to mean, among other things, that the revenues sufficient to fund each year of the project schedule for the flood protection system have been identified, and that at least 90% of the revenues scheduled to have been received in any given year have been appropriated and are being expended.

This bill, for the purpose of those provisions, would authorize the Central Valley Flood Protection Board (board) to find that the local flood management agency is making adequate progress in working toward the completion of the flood protection system for any year in which state funding is not appropriated consistent with an agreement between a state agency and the local flood management agency.

(2) Under existing law, the Department of Water Resources performs various flood management activities throughout the state, and the board engages in flood management activities along the Sacramento River and San Joaquin River, their tributaries, and related areas. Existing law establishes the Sacramento and San Joaquin Drainage District under the administration of the board for the purposes of carrying out specified flood management activities within the boundaries of the district. Existing law requires the board, in any evidentiary hearing, to consider various matters, including the effects of a proposed action on the State Plan of Flood Control, as defined.

This bill would revise the definition of the State Plan of Flood Control for these and other purposes.

(3) Existing law provides that a majority of the board constitutes a quorum and declares that no board action is effective unless the action is concurred in by a majority of the board members.

This bill, instead, would provide that a majority of the voting members of the board constitutes a quorum and would declare that no board action is effective unless a quorum is present and the action is concurred in by a majority of all of the voting members of the board.

(4) Under existing law, any meeting of the board, at its office, when all of the members are present, is a legal meeting at which any business may be transacted.

This bill would repeal that provision.

(5) Existing law prohibits a board member or any person or organization with an interest in board decisions, or any person representing a person or organization with an interest in board decisions who intends to influence the decision of a board member on a matter before the board, from conducting an ex parte communication, as defined.

This bill would revise the definition of the term "ex parte communication" to mean any oral or written communication outside of a noticed board meeting concerning specified matters. The bill would prohibit a board member appointed by the Governor from participating in an ex parte communication with any person or organization with an interest in board decisions, or any person representing a person or organization with an interest in board decisions who intends to influence the decision of a board member on a matter before the board.

(6) Existing law requires the board to hold an evidentiary hearing for any matter that requires the issuance of a permit.

This bill would require the board to hold an evidentiary hearing for any matter that requires the issuance of a permit if the proposed work may significantly affect any element of the State Plan of Flood Control or if a formal protest against that permit has been lodged. The bill would authorize the board to, by regulation, define types of encroachments that will not significantly affect any element of the State Plan of Flood Control. The bill would authorize the board to delegate the approval of permits for those encroachments to the executive officer.

(7) Existing law requires the board to make a specified finding regarding the impact of an encroachment on public safety before taking action to modify an encroachment on levees, channels, or other flood control works.

This bill would authorize the board to delegate to the executive officer the authority to take action to remove or modify the encroachment. The bill would authorize the board, and the executive officer if delegated that authority, to issue an order directing a person or public agency to cease and desist from undertaking, or threatening to undertake, an activity that may encroach on levees, channels, or other flood control works under the jurisdiction of the board. The board, and the executive officer if delegated that authority, would be granted authority to issue

an order directing a person or public agency to cease and desist from undertaking, or threatening to undertake, an activity that requires a permit from the board without securing a permit or an activity that is inconsistent with a permit issued by the board. The bill would authorize the imposition of civil liability on a person or public agency that undertakes an encroachment or commits other action in violation of specified requirements relating to encroachments to provisions relating to the board.

(8) Existing law provides for state cooperation with the federal government in the construction of specified flood control projects.

This bill, with a certain exception, would provide that specified provisions of law that authorize financial assistance to flood control projects in the Sacramento-San Joaquin Watersheds shall not be construed to expand the liability of the state for the operation and maintenance of any flood management facility that is outside the scope of a designated state plan of flood control.

(9) The bill would make various technical corrections.

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

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

SECTION 1. Section 65007 of the Government Code is amended to read:

65007. As used in this title, the following terms have the following meanings, unless the context requires otherwise:

(a) "Adequate progress" means all of the following:

(1) The total project scope, schedule, and cost of the completed flood protection system have been developed to meet the appropriate standard of protection.

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

(B) Notwithstanding subparagraph (A), for any year in which state funding is not appropriated consistent with an agreement between a state agency and a local flood management agency, the Central Valley Flood Protection Board may find that the local

flood management agency is making adequate progress in working toward the completion of the flood protection system.

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

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

(5) The local flood management agency shall provide the Department of Water Resources and the Central Valley Flood Protection Board with the information specified in this subdivision sufficient to determine substantial completion of the required flood protection. The local flood management agency shall annually report to the Central Valley Flood Protection Board on the efforts in working toward completion of the flood protection system.

(b) "Central Valley Flood Protection Plan" has the same meaning as that set forth in Section 9612 of the Water Code.

(c) "Developed area" has the same meaning as that set forth in Section 59.1 of Title 44 of the Code of Federal Regulations.

(d) "Flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of flood hazard zones does not imply that areas outside the flood hazard zones, or uses permitted within flood hazard zones, will be free from flooding or flood damage.

(e) "Nonurbanized area" means a developed area or an area outside a developed area in which there are fewer than 10,000 residents.

(f) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

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

(h) "State Plan of Flood Control" has the same meaning as that set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(i) "Urban area" means a developed area in which there are 10,000 residents or more.

(j) "Urbanizing area" means a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years.

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

SEC. 2. Section 8502 of the Water Code is amended to read:

8502. The management and control of the district are vested in the Central Valley Flood Protection Board.

SEC. 3. Section 8522.3 of the Water Code, as added by Section 4 of Chapter 365 of the Statutes of 2007, is repealed.

SEC. 4. Section 8522.3 of the Water Code, as added by Section 8 of Chapter 366 of the Statutes of 2007, is amended to read:

8522.3. "Facilities of the State Plan of Flood Control" has the same meaning as that set forth in subdivision (e) of Section 5096.805 of the Public Resources Code.

SEC. 5. Section 8522.5 of the Water Code, as added by Section 5 of Chapter 365 of the Statutes of 2007, is repealed.

SEC. 6. Section 8522.5 of the Water Code, as added by Section 9 of Chapter 366 of the Statutes of 2007, is amended to read:

8522.5. "Project levee" has the same meaning as that set forth in subdivision (g) of Section 5096.805 of the Public Resources Code.

SEC. 7. Section 8523 of the Water Code, as added by Section 6 of Chapter 365 of the Statutes of 2007, is repealed.

SEC. 8. Section 8523 of the Water Code, as added by Section 10 of Chapter 366 of the Statutes of 2007, is amended to read:

8523. "State Plan of Flood Control" has the same meaning as that set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

SEC. 9. Section 8559 of the Water Code is amended to read:

8559. A majority of the voting members of the board constitutes a quorum.

SEC. 10. Section 8560 of the Water Code is amended to read:

8560. No action of the board shall be effective unless a quorum is present and the action is concurred in by a majority of all of the voting members of the board.

SEC. 11. Section 8562 of the Water Code is repealed.

SEC. 12. Section 8577 of the Water Code, as added by Section 12 of Chapter 365 of the Statutes of 2007, is repealed.

SEC. 13. Section 8578 of the Water Code, as added by Section 13 of Chapter 365 of the Statutes of 2007, is repealed.

SEC. 14. Section 8578 of the Water Code, as added by Section 17 of Chapter 366 of the Statutes of 2007, is amended to read:

8578. (a) For the purposes of this section, "ex parte communication" means any oral or written communication outside of a noticed board meeting concerning matters, other than purely procedural matters, regarding any of the following:

(1) An application that has been submitted to the board and has been determined to be complete by the executive officer.

(2) An enforcement action.

(3) Any other quasi-judicial matter requiring board action, after the matter has been placed on the board's agenda and notice of the meeting has been provided pursuant to Section 11125 of the Government Code.

(b) (1) A board member appointed pursuant to subdivision (b) of Section 8551 shall not participate in an ex parte communication with any person or organization with an interest in board decisions, nor any person representing a person or organization with an interest in board decisions, excluding a staff member of the board acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board.

(2) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.

(3) Communications cease to be ex parte communications when the board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.

(c) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government

Code) do not apply to proceedings of the board to which this section applies.

SEC. 15. Section 8610.5 of the Water Code is amended to read:

8610.5. (a) (1) The board shall adopt regulations relating to evidentiary hearings pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The board shall hold an evidentiary hearing for any matter that requires the issuance of a permit if the proposed work may significantly affect any element of the State Plan of Flood Control or if a formal protest against that permit has been lodged.

(3) The board may, by regulation, define types of encroachments that will not significantly affect any element of the State Plan of Flood Control. Evidentiary hearings are not required for uncontested applications for those defined encroachments unless, in the judgment of the executive officer, there is a reasonable possibility that the project will have a significant effect on an adopted plan of flood control.

(4) The board may delegate approval of permits for encroachments that will not significantly affect any element of the State Plan of Flood Control to the executive officer.

(5) The board is not required to hold an evidentiary hearing before making a decision relating to general flood protection policy or planning.

(b) The board may take an action pursuant to Section 8560 only after allowing for public comment.

(c) The board shall, in any evidentiary hearing, consider all of the following, as applicable, for the purpose of taking any action pursuant to Section 8560:

(1) Evidence that the board admits into its record from any party, state or local public agency, or nongovernmental organization with expertise in flood or flood plain management.

(2) The best available science that relates to the scientific issues presented by the executive officer, legal counsel, the department, or other parties that raise credible scientific issues.

(3) Effects of the proposed decision on the entire State Plan of Flood Control.

(4) Effects of reasonably projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed.

SEC. 16. Section 8709.4 of the Water Code is amended to read:

8709.4. (a) Before ~~taking action to remove or modify an~~ *removing or modifying a lawful existing* encroachment on levees, channels, and other flood control works pursuant to powers granted by this part, a permit, or standards adopted pursuant to this part, the board shall make one of the following findings, based on substantial evidence, regarding the encroachment's impact on public safety:

(1) The encroachment presents an imminent threat to the structural integrity of the levee, channel, or other flood control work.

(2) The encroachment significantly impairs the functional capability of the levee, channel, or other flood control work to fulfill its particular intended role in the overall flood control plan.

(b) Routine maintenance that includes the removal or modification of fences, gates, and vegetation on the levee structure and other flood control structures is not subject to subdivision (a).

(c) The board may delegate authority to the executive officer to take action to remove or modify encroachments on levees, channels, and other flood control works in accordance with subdivision (a).

SEC. 17. Section 8709.5 is added to the Water Code, to read:

8709.5. (a) Notwithstanding Section 8709 or 8709.4, if the board, or the executive officer if delegated authority by the board, determines that any person or public agency has undertaken, or is threatening to undertake, any activity that may encroach on levees, channels, or other flood control works under the jurisdiction of the board, the board or executive officer may issue an order directing that person or public agency to cease and desist. The order may also be issued to enforce any requirement of a permit or any requirement under this part that is subject to the jurisdiction of the board.

(b) The cease and desist order shall be issued only if the person or public agency has failed to respond in a satisfactory manner to an oral notice given in person or by telephone, followed by a written confirmation, or a written notice given by certified mail or hand delivered to the landowner or the person performing the activity. The notice shall include the following:

(1) A description of the activity that meets the criteria of subdivision (a) of Section 8709.4 or a statement that the described

activity constitutes an encroachment that is in violation of this article because it is not authorized by a valid permit.

(2) A statement that the described activity shall immediately cease or the alleged violator may receive a cease and desist order, the violation of which may subject the violator to fines or penalties.

(3) The name, address, and telephone number of the staff member who is to be contacted for further information.

(c) The cease and desist order may be subject to terms and conditions as the board or the executive officer may determine are necessary to avoid an unreasonable impact on public safety.

(d) The cease and desist order shall be effective upon its issuance, and copies shall be served immediately by certified mail upon the person or agency subject to the order.

SEC. 18. Section 8709.6 is added to the Water Code, to read:

8709.6. (a) ~~If~~ *Notwithstanding Sections 8709 and 8709.4, if* the board, after a public hearing, determines that any person or public agency has undertaken, or is threatening to undertake, any activity that requires a permit from the board without securing a permit or is inconsistent with any permit previously issued by the board, the board may issue an order directing that person or public agency to cease and desist. The board may also issue the order to enforce any requirement of a permit, or any requirement of this part that is subject to the jurisdiction of the board.

(b) The cease and desist order may be subject to terms and conditions as the board may determine are necessary to ensure compliance with this part, including immediate removal of any encroachment or the setting of a schedule within which action shall be taken to obtain a permit pursuant to this part.

(c) Notice of the public hearing on a proposed cease and desist order shall be given to any affected person and public agency and the order shall be final and effective upon the issuance of the order. Copies shall be served immediately by certified mail upon the person or public agency subject to the order and upon other affected persons and public agencies that appear at the hearing or request a copy.

(d) In addition to any other authority to order restoration, the board may, after a public hearing, order restoration of a site if it finds that an encroachment has occurred without a permit from the board.

SEC. 19. Section 8709.7 is added to the Water Code, to read:

8709.7. (a) Any person or public agency that violates any provision of this article may be civilly liable in accordance with this section.

(b) (1) Civil liability may be imposed by the superior court in accordance with this article on any person or public agency that performs or undertakes an encroachment that is in violation of this article or that is inconsistent with any permit previously issued by the board in an amount that shall not exceed thirty thousand dollars ($30,000), but shall not be less than five hundred dollars ($500).

(2) Civil liability may be imposed for any violation of this part other than a violation specified in paragraph (1) in an amount that shall not exceed thirty thousand dollars ($30,000).

(c) Any person or public agency that performs or undertakes an encroachment that is in violation of this part or in a manner that is inconsistent with any permit previously issued by the board, when the person or public agency intentionally and knowingly performs or undertakes the encroachment in violation of this part or in a manner that is inconsistent with any previously issued permit, may, in addition to any other penalties, be civilly liable in accordance with this subdivision. Civil liability may be imposed by the superior court in accordance with this article for a violation described in this subdivision in an amount that shall not be less than one thousand dollars ($1,000), nor more than fifteen thousand dollars ($15,000), per day for each day in which the ~~violation~~ *encroachment* persists.

(d) In determining the amount of civil liability, the following factors shall be considered:

(1) The nature, circumstance, extent, and gravity of the violation.

(2) Whether the violation is susceptible to restoration or other remedial measures.

(3) The function of the levee, channel, or other flood control work affected by the violation.

(4) The cost to the state of bringing the action.

(5) With respect to the violator, any voluntary restoration or remedial measures undertaken, any prior history of violations, the degree of culpability, economic profits, if any, resulting from, or expected to result as a consequence of, the violation, and other matters the board deems relevant.

(e) Any person or public agency that intentionally or negligently violates any cease and desist order issued, reissued, or amended

by the board, or any restoration order issued, reissued, or amended by the board may be liable for a civil penalty in an amount that shall not exceed six thousand dollars ($6,000) for each day in which that violation persists. Any actual penalty imposed shall be reasonably proportionate to the damage suffered as a consequence of the violation.

(f) This section does not authorize the issuance or enforcement of any cease and desist order as to any activity undertaken by a local public agency pursuant to a declaration of emergency by the governing body of the local public agency or the board of supervisors of the county in which the activity is being or may be undertaken.

SEC. 20. The heading of Article 2 (commencing with Section 12645) is added to Chapter 2 of Part 6 of Division 6 of the Water Code, to read:

Article 2. Projects in the Sacramento-San Joaquin Watersheds

SEC. 21. Section 12645 is added to the Water Code, to read:

12645. The Legislature finds and declares all of the following:

(a) In 1911, the Legislature adopted a flood control plan for the Sacramento Valley, as proposed by the federal California Debris Commission, and created the Reclamation Board to regulate levees and other encroachments, *and to review and approve flood control plans for the Sacramento River and its tributaries*. The state's adoption of a valley-wide flood management plan was intended to ~~provide state control over local flood control projects~~ *create a unified plan of flood control and to reclaim lands from overflow*. Six years later, California gained Congressional authorization for the United States Army Corps of Engineers (Corps) to collaborate with the state in building and maintaining the Sacramento River Flood Control Project. *The federal government transferred completed portions of the Sacramento River Flood Control Project to the state as portions were completed, and the state, in turn, passed responsibility for operation and maintenance to local districts organized to provide flood control within their boundaries.*

(b) The state and federal governments have built or rebuilt levees, weirs, and bypasses to increase conveyance of flood waters downstream. The Sacramento River Flood Control Project and the federal-state flood control project in the San Joaquin Valley include

approximately 1,600 miles of levees and other facilities to reduce central valley flood risk, now defined as the State Plan of Flood Control in subdivision (j) of Section 5096.805 of the Public Resources Code. The Corps often constructed ~~the~~ federal "project levees" in both the Sacramento and San Joaquin ~~Basin from already existing private or local~~ *River watersheds by modifying existing* levees. The federal government transferred completed portions of the Sacramento River Flood Control Project to the state, as portions were completed, which in turn passed responsibility for operation and maintenance to local reclamation districts.

(c) In 2003, a state Court of Appeal in Paterno v. State of California (2003) 113 Cal.App.4th 998 (Paterno), ~~highlighted the liability risks the state faces from failed levees. The Paterno court~~ held the state liable*, in a claim for inverse condemnation,* for failure of a levee that was operated and maintained by a local levee maintenance district. In settlement of that litigation, the state's liability was substantial because homes and a shopping center were built behind the levee and suffered from the resulting flood.

~~(d) State law has authorized funding for various flood control projects in the Sacramento-San Joaquin Watersheds. These~~

(d) The Legislature has authorized funding for numerous flood control projects throughout the Sacramento and San Joaquin River watersheds. These statutory authorizations included varying provisions regarding responsibility and liability for operation and maintenance of the flood control facilities, and may or may not have incorporated the specified facilities into the federal-state Sacramento River or San Joaquin River flood control projects. After the court ruling in Paterno, the status of each flood facility became critically important to determining liability, and legal ambiguities led to questions about whether particular facilities were incorporated into a federal-state flood control project. In some cases, despite a location between two project levees, certain levees remain outside the jurisdiction of a federal-state flood control project, with local agencies retaining liability.

(e) In 2006, California voters approved the Disaster Preparedness and Flood Prevention Bond Act of 2006, which authorized the issuance of general obligation bonds in the amount of $4.9 billion for flood protection and defined the Sacramento River and San Joaquin River federal-state flood control projects as the "State Plan of Flood Control." The following year, the

Legislature passed a package of bills to reform state flood protection policy in the central valley. These laws required the Department of Water Resources to develop, and the Central Valley Flood Protection Board to adopt, a Central Valley Flood Protection Plan, which is broader than the State Plan of Flood Control, affecting the entire watersheds of the Sacramento and San Joaquin Valley. These laws ~~addressed state liability for central valley flood control facilities, ensuring that the state's liability was limited to~~ *included provisions intended to limit state liability to* facilities identified in the State Plan of Flood Control. These laws did not specifically address the facilities described in this article.

SEC. 22. Section 12646 is added to the Water Code, to read:

12646. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this chapter.

(a) "Board" means the Central Valley Flood Protection Board.

(b) "Plan" means the Central Valley Flood Protection Plan.

(c) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(d) "Public safety infrastructure" means public safety infrastructure necessary to respond to a flood emergency, including, but not limited to, street and highway evacuation routes, *medical care facilities, and* public utilities necessary for public health and safety, including drinking water and wastewater treatment facilities~~, and hospitals~~.

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

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

SEC. 23. Section 12647 is added to the Water Code, to read:

12647. (a) The state shall not have responsibility or liability for the ~~operation~~ *construction, operation,* and maintenance of central valley flood control facilities identified in this article unless ~~one or more~~ *all* of the following applies:

(1) The department identifies the facility as part of the State Plan of Flood Control.

(2) The state has expressly accepted the transfer of liability for the facility from the federal government.

(3) The board incorporates the facility into the State Plan of Flood Control pursuant to Section 9611.

(b) Unless otherwise specifically provided, nothing in this article shall be construed to expand the responsibility of the state for the operation or maintenance of any flood management facility outside the scope of the State Plan of Flood Control, except as specifically determined by the board pursuant to Section 9611.

(c) Use of the phrase "adopted and authorized" in this article does not, by itself, reflect incorporation of the specified facility into the State Plan of Flood Control or assumption of liability by the state, unless one of the conditions described in subdivision (a) applies to the facility.

(d) Nothing in this section abrogates or modifies any duty, responsibility, or liability of any federal, state, or local agency, including, but not limited to, those duties, responsibilities, and liabilities set forth in Sections 8370, 12642, and 12828.

SEC. 24. The heading of Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of the Water Code is repealed.

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