

AMENDED IN SENATE JANUARY 25, 2010

AMENDED IN SENATE JANUARY 15, 2010

AMENDED IN SENATE JANUARY 4, 2010

**SENATE BILL**

**No. 808**

---

---

**Introduced by Senator Wolk**

(Coauthors: Assembly Members Bill Berryhill, Buchanan, Galgiani,  
Huber, and Yamada)

February 27, 2009

---

---

An act to amend Sections 12986 and 12987.5 of the Water Code, relating to water projects, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 808, as amended, Wolk. Delta levee maintenance.

Existing law establishes a delta levee maintenance program pursuant to which a local agency may request reimbursement for costs incurred in connection with the maintenance or improvement of project or nonproject levees in the Sacramento-San Joaquin Delta. Existing law declares legislative intent to reimburse eligible local agencies under this program, until July 1, 2010, in an amount not to exceed 75% of those costs that are incurred in excess of \$1,000 per mile of levee, and on and after that date, in an amount not to exceed 50% of those described costs.

This bill, instead, would declare legislative intent to reimburse up to 75% of those described costs until July 1, ~~2010~~ 2013, and on and after that date, to reimburse up to 50% of those described costs.

Existing law, until July 1, 2010, authorizes the board to provide funds to an eligible local agency under this program in the form of an advance in an amount that does not exceed 75% of the estimated state share.

This bill would extend the operation of that authorization to July 1, 2016 2013.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 12986 of the Water Code, as amended  
2 by Section 4 of Chapter 548 of the Statutes of 2006, is amended  
3 to read:

4 12986. (a) It is the intention of the Legislature to reimburse  
5 an eligible local agency pursuant to this part for costs incurred in  
6 any year for the maintenance or improvement of project or  
7 nonproject levees as follows:

8 (1) No costs incurred shall be reimbursed if the entire cost  
9 incurred per mile of project or nonproject levee is one thousand  
10 dollars (\$1,000) or less.

11 (2) Not more than 75 percent of any costs incurred in excess of  
12 one thousand dollars (\$1,000) per mile of project or nonproject  
13 levee shall be reimbursed.

14 (3) (A) As part of the project plans approved by the board, the  
15 department shall require the local agency or an independent  
16 financial consultant to provide information regarding the agency's  
17 ability to pay for the cost of levee maintenance or improvement.  
18 Based on that information, the department may require the local  
19 agency or an independent financial consultant to prepare a  
20 comprehensive study on the agency's ability to pay.

21 (B) The information or comprehensive study of the agency's  
22 ability to pay shall be the basis for determining the maximum  
23 allowable reimbursement eligible under this part. Nothing in this  
24 paragraph shall be interpreted to increase the maximum  
25 reimbursement allowed under paragraph (2).

26 (4) Reimbursements made to the local agency in excess of the  
27 maximum allowable reimbursement shall be returned to the  
28 department.

1 (5) The department may recover, retroactively, excess  
2 reimbursements paid to the local agency from any time after  
3 January 1, 1997, based on an updated study of the agency's ability  
4 to pay.

5 (6) All final costs allocated or reimbursed under a plan shall be  
6 approved by the reclamation board for project and nonproject levee  
7 work.

8 (7) Costs incurred pursuant to this part that are eligible for  
9 reimbursement include construction costs and associated  
10 engineering services, financial or economic analyses,  
11 environmental costs, mitigation costs, and habitat improvement  
12 costs.

13 (b) Upon completion of its evaluation pursuant to Sections 139.2  
14 and 139.4, by January 1, 2008, the department shall recommend  
15 to the Legislature and the Governor priorities for funding under  
16 this section.

17 (c) Reimbursements made pursuant to this section shall reflect  
18 the priorities of, and be consistent with, the Delta Plan established  
19 pursuant to Chapter 1 (commencing with Section 85300) of Part  
20 4 of Division 25, as enacted by Section 39 of Chapter 5 of the  
21 Seventh Extraordinary Session of the Statutes of 2009.

22 (d) This section shall become inoperative on July 1, ~~2016~~ 2013,  
23 and, as of January 1, ~~2017~~ 2014, is repealed, unless a later enacted  
24 statute, that becomes operative on or before January 1, ~~2017~~ 2014,  
25 deletes or extends the dates on which it becomes inoperative and  
26 is repealed.

27 SEC. 2. Section 12986 of the Water Code, as amended by  
28 Section 5 of Chapter 548 of the Statutes of 2006, is amended to  
29 read:

30 12986. (a) It is the intention of the Legislature to reimburse  
31 from the General Fund an eligible local agency pursuant to this  
32 part for costs incurred in any year for the maintenance or  
33 improvement of project or nonproject levees as follows:

34 (1) No costs incurred shall be reimbursed if the entire cost  
35 incurred per mile of levee is one thousand dollars (\$1,000) or less.

36 (2) Fifty percent of any costs incurred in excess of one thousand  
37 dollars (\$1,000) per mile of levee shall be reimbursed.

38 (3) The maximum total reimbursement from the General Fund  
39 shall not exceed two million dollars (\$2,000,000) annually.

40 (b) This section shall become operative on July 1, ~~2016~~ 2013.

1 SEC. 3. Section 12987.5 of the Water Code is amended to read:

2 12987.5. (a) In an agreement entered into under Section 12987,  
3 the board may provide for an advance to the applicant in an amount  
4 not to exceed 75 percent of the estimated state share. The  
5 agreement shall provide that no advance shall be made until the  
6 applicant has incurred costs averaging one thousand dollars  
7 (\$1,000) per mile of levee.

8 (b) Advances made under subdivision (a) shall be subtracted  
9 from amounts to be reimbursed after the work has been performed.  
10 If the department finds that work has not been satisfactorily  
11 performed or where advances made actually exceed reimbursable  
12 costs, the local agency shall promptly remit to the state all amounts  
13 advanced in excess of reimbursable costs. If advances are sought,  
14 the board may require a bond to be posted to ensure the faithful  
15 performance of the work set forth in the agreement.

16 (c) This section shall become inoperative on July 1, ~~2016~~ 2013,  
17 and, as of January 1, ~~2017~~ 2014, is repealed, unless a later enacted  
18 statute, that becomes operative on or before January 1, ~~2017~~ 2014,  
19 deletes or extends the dates on which it becomes inoperative and  
20 is repealed.

21 SEC. 4. This act is an urgency statute necessary for the  
22 immediate preservation of the public peace, health, or safety within  
23 the meaning of Article IV of the Constitution and shall go into  
24 immediate effect. The facts constituting the necessity are:

25 In order to facilitate the performance of necessary levee  
26 maintenance as soon as possible, it is necessary that this act take  
27 effect immediately.