

AMENDED IN SENATE AUGUST 29, 2012

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN ASSEMBLY APRIL 24, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1965**

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**Introduced by Assembly Member Pan**  
*(Principal coauthor: Senator Wolk)*

February 23, 2012

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~~An act to amend Section 66602 of the Education Code, relating to public postsecondary education. An act to amend Section 65007 of the Government Code, and to amend Section 9610 of the Water Code, relating to land use.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1965, as amended, Pan. ~~California State University: trustees: student members: voting at board meetings.~~ *Land use.*

*Existing law requires the Department of Water Resources to develop preliminary maps for the 100- and 200-year flood plains protected by project levees, as specified, and to provide the preliminary maps to cities and counties within the Sacramento-San Joaquin Valley.*

*This bill would additionally require the department, on or before July 2, 2013, to release floodplain maps, as specified, and the available data as to the water surface elevation of flooding in urban areas, as specified. The bill would provide that the department's issuance of floodplain maps are not subject to the review and approval of the Office of Administrative Law, as specified. The bill would provide that the state*

or any state agency is not liable for any claim based upon the reasonable exercise or performance of a discretionary or ministerial function or duty pursuant to this provision. The bill would incorporate additional changes pursuant to SB 1278, as specified.

This bill would become operative only if SB 1278 is enacted and takes effect on or before January 1, 2013, and this bill is enacted last.

~~Existing law establishes the California State University, under the administration of the Trustees of the California State University, as one of the segments of public postsecondary education in this state. Under existing law, the trustees are composed of a total of 25 members, which include 5 specified ex officio members, a representative of the alumni associations of the university, 16 members appointed by the Governor, subject to confirmation by  $\frac{2}{3}$  of the membership of the Senate, for 8-year terms, and 2 California State University students and one California State University faculty member appointed by the Governor for 2-year terms. Existing law prohibits a student member from voting at a board meeting during the first year of his or her term.~~

~~This bill would authorize a student member to vote at a board meeting during the first year of his or her term if the other student member is absent from that meeting.~~

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

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

1 SECTION 1. Section 65007 of the Government Code is  
2 amended 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 all of the following:  
6 (1) The total project scope, schedule, and cost of the completed  
7 flood protection system have been developed to meet the  
8 appropriate standard of protection.  
9 (2) (A) Revenues that are sufficient to fund each year of the  
10 project schedule developed in paragraph (1) have been identified  
11 and, in any given year and consistent with that schedule, at least  
12 90 percent of the revenues scheduled to be received by that year  
13 have been appropriated and are currently being expended.  
14 (B) Notwithstanding subparagraph (A), for any year in which  
15 state funding is not appropriated consistent with an agreement

1 between a state agency and a local flood management agency, the  
2 Central Valley Flood Protection Board may find that the local  
3 flood management agency is making adequate progress in working  
4 toward the completion of the flood protection system.

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

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

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

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

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

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

28 (e) *“National Federal Emergency Management Agency standard  
29 of flood protection” means the level of flood protection that is  
30 necessary to withstand flooding that has a 1-in-100 chance of  
31 occurring in any given year using criteria developed by the Federal  
32 Emergency Management Agency for application in the National  
33 Flood Insurance Program.*

34 ~~(e)~~

35 (f) “Nonurbanized area” means a developed area or an area  
36 outside a developed area in which there are fewer than 10,000  
37 residents *that is not an urbanizing area.*

38 ~~(f)~~

39 (g) “Project levee” means any levee that is part of the facilities  
40 of the State Plan of Flood Control.

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

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

13 ~~(i)~~  
 14 (j) “Tulare Lake basin” means the Tulare Lake Hydrologic  
 15 Region as defined in the California Water Plan Update 2009,  
 16 prepared by the Department of Water Resources pursuant to  
 17 Chapter 1 (commencing with Section 10004) of Part 1.5 of Division  
 18 6 of the Water Code.

19 ~~(j)~~  
 20 (k) *“Undetermined risk area” means an urban or urbanizing*  
 21 *area within a moderate flood hazard zone, as delineated on an*  
 22 *official flood insurance rate map issued by the Federal Emergency*  
 23 *Management Agency, which has not been determined to have an*  
 24 *urban level of protection.*

25 ~~(k)~~  
 26 (l) “Urban area” means a developed area in which there are  
 27 10,000 residents or more.

28 (m) “Urbanizing area” means a developed area or an area outside  
 29 a developed area that is planned or anticipated to have 10,000  
 30 residents or more within the next 10 years.

31 ~~(l)~~  
 32 (n) “Urban level of flood protection” means the level of  
 33 protection that is necessary to withstand flooding that has a  
 34 1-in-200 chance of occurring in any given year using criteria  
 35 consistent with, or developed by, the Department of Water  
 36 Resources. *“Urban level of flood protection” shall not mean*  
 37 *shallow flooding or flooding from local drainage that meets the*  
 38 *criteria of the national Federal Emergency Management Agency*  
 39 *standard of flood protection.*

40 SEC. 2. Section 9610 of the Water Code is amended to read:

1 9610. (a) (1) By July 1, 2008, the department shall develop  
2 preliminary maps for the 100- and 200-year flood plains protected  
3 by project levees. The 100-year flood plain maps shall be prepared  
4 using criteria developed or accepted by the Federal Emergency  
5 Management Agency (FEMA).

6 (2) The department shall use available information from the  
7 ~~2002 Sacramento-San Joaquin~~ *Sacramento and San Joaquin River*  
8 ~~Basin~~ *Basins* Comprehensive Study, preliminary and regulatory  
9 FEMA flood insurance rate maps, recent flood plain studies, and  
10 other sources to compile preliminary maps.

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

14 (4) The department shall post this information on the board's  
15 Internet Web site and may periodically update the maps as  
16 necessary.

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

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

27 (d) (1) *On or before July 2, 2013, and for the purpose of*  
28 *providing information to cities and counties necessary for their*  
29 *determinations relating to level of flood protection, the department*  
30 *shall release floodplain maps that identify at a minimum the*  
31 *facilities of the State Plan of Flood Control and the available data*  
32 *as to the water surface elevation of flooding in urban areas in the*  
33 *event of the failure of the facilities of the State Plan of Flood*  
34 *Control during flooding that has a 1-in-200 chance of occurring*  
35 *in any given year.*

36 (2) *Concurrent with the release of these maps and for the*  
37 *purpose of assisting local agencies in determining their level of*  
38 *flood protection, the department shall make available levee*  
39 *reliability data for the facilities of the State Plan of Flood Control*  
40 *identified in the maps.*

1 (e) The department's issuance of floodplain maps shall not be  
2 subject to the review and approval of the Office of Administrative  
3 Law or to any other requirements of Chapter 3.5 (commencing  
4 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
5 Government Code.

6 (f) The state, or any state agency, shall not be liable for any  
7 claim based upon the reasonable exercise or performance of a  
8 discretionary or ministerial function or duty on the part of a state  
9 agency or a state employee or officer in carrying out subdivision  
10 (d).

11 SEC. 3. This act shall become operative only if Senate Bill  
12 1278 is enacted and takes effect on or before January 1, 2013, and  
13 this bill is enacted last.

14 SECTION 1. Section 66602 of the Education Code is amended  
15 to read:

16 66602. (a) ~~The board shall be composed of the following five~~  
17 ~~ex-officio members: the Governor, the Lieutenant Governor, the~~  
18 ~~Superintendent of Public Instruction, the Speaker of the Assembly,~~  
19 ~~and the person named by the trustees to serve as the Chancellor~~  
20 ~~of the California State University; a representative of the alumni~~  
21 ~~associations of the state university, selected for a two-year term~~  
22 ~~by the alumni council, California State University, which~~  
23 ~~representative shall not be an employee of the California State~~  
24 ~~University during the two-year term; and 16 appointive members~~  
25 ~~appointed by the Governor and subject to confirmation by~~  
26 ~~two-thirds of the membership of the Senate.~~

27 (b) (1) ~~Two students from the California State University, who~~  
28 ~~shall have at least a junior year standing at the institutions they~~  
29 ~~attend, and who remain in good standing as students during their~~  
30 ~~respective terms, shall also be appointed by the Governor to serve~~  
31 ~~on the board for two-year terms.~~

32 (2) ~~In the selection of students as members of the board, the~~  
33 ~~Governor shall appoint the students from lists of names of at least~~  
34 ~~two, but not more than five, persons furnished by the governing~~  
35 ~~board of any statewide student organization that represents the~~  
36 ~~students of the California State University and the student body~~  
37 ~~organizations of the campuses of the California State University.~~  
38 ~~Any appointment to fill a vacancy of a student member shall be~~  
39 ~~effective only for the remainder of the term of the person's office~~  
40 ~~that became vacated.~~

1     ~~(3) The term of office of one student member of the board shall~~  
2 ~~commence on July 1 of an even-numbered year and expire on June~~  
3 ~~30 two years thereafter. The term of office of the other student~~  
4 ~~member of the board shall commence on July 1 of an~~  
5 ~~odd-numbered year and expire on June 30 two years thereafter.~~  
6 ~~Notwithstanding paragraph (1), a student member who graduates~~  
7 ~~from his or her college or university on or after January 1 of the~~  
8 ~~second year of his or her term of office may serve the remainder~~  
9 ~~of the term.~~

10     ~~(4) (A) During the first year of a student member's term, a~~  
11 ~~student member shall be a member of the board and may attend~~  
12 ~~all meetings of the board and its committees. At these meetings,~~  
13 ~~a student member may fully participate in discussion and debate,~~  
14 ~~but may not vote. During the second year of a student member's~~  
15 ~~term, a student member may exercise the same right to attend~~  
16 ~~meetings of the board, and its committees, and shall have the same~~  
17 ~~right to vote as the members appointed pursuant to subdivision~~  
18 ~~(a).~~

19     ~~(B) Notwithstanding subparagraph (A), during the first year of~~  
20 ~~a student member's term, the student may vote at a board meeting~~  
21 ~~if the other student member is absent from that meeting.~~

22     ~~(5) Notwithstanding paragraph (4), if a student member resigns~~  
23 ~~from office or a vacancy is otherwise created in that office during~~  
24 ~~the second year of a student member's term, the remaining student~~  
25 ~~member shall immediately assume the office created by the vacancy~~  
26 ~~and all of the participation privileges of the second-year student~~  
27 ~~member, including the right to vote, for the remainder of that term~~  
28 ~~of office.~~

29     ~~(e) (1) A faculty member from the California State University,~~  
30 ~~who shall be tenured at the California State University campus at~~  
31 ~~which he or she teaches, shall also be appointed by the Governor~~  
32 ~~to serve on the board for a two-year term. In the selection of a~~  
33 ~~faculty member as a member of the board, the Governor shall~~  
34 ~~appoint the faculty member from a list of names of at least two~~  
35 ~~persons furnished by the Academic Senate of the California State~~  
36 ~~University.~~

37     ~~(2) The faculty member of the board appointed by the Governor~~  
38 ~~pursuant to this subdivision shall not participate on any~~  
39 ~~subcommittee of the board responsible for collective bargaining~~  
40 ~~negotiations.~~

1     ~~(3) The term of office of the faculty member of the board shall~~  
2     ~~commence on July 1, and shall expire on June 30 two years~~  
3     ~~thereafter.~~

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