

Senate Bill No. 200

CHAPTER 549

An act to amend Sections 12980, 12986, and 12987.5 of the Water Code, relating to water projects.

[Approved by Governor September 25, 2012. Filed with
Secretary of State September 25, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 200, Wolk. Delta levee maintenance.

Existing law, requires the Department of Water Resources to develop and submit to the Reclamation Board criteria for adoption by the board for the maintenance and improvement of nonproject levees, as prescribed. Existing law requires the department to inspect completed maintenance or improvement work, as specified, and requires the department to submit to the board a report upon completion of an inspection, as to its finding. Existing law also authorizes the department and the board to cooperate with the United States Army Corps of Engineers to develop and implement delta levee rehabilitation, improvement, and realignment, and to enhance the environment.

This bill would, instead, define "board" for the above purposes as the Central Valley Flood Protection Board.

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, 2013, 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, 2018, and on and after that date, to reimburse up to 50% of those described costs.

Existing law, until July 1, 2013, 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, 2018.

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

SECTION 1. Section 12980 of the Water Code is amended to read:
12980. As used in this part:

- (a) “Board” means the Central Valley Flood Protection Board.
- (b) “Delta” means the Sacramento-San Joaquin Delta as described in Section 12220.
- (c) “Local agency” means any city, county, district, or other political subdivision of the state which is authorized to maintain levees.
- (d) “Net long-term habitat improvement” means enhancement of riparian, fisheries, and wildlife habitat.
- (e) “Nonproject levee” means a local flood control levee in the delta that is not a project facility under the State Water Resources Law of 1945, as shown on page 38 of the Department of Water Resources “Sacramento-San Joaquin Delta Atlas,” dated 1993.
- (f) “Project levee” means a federal flood control levee, as shown on page 40 of the Department of Water Resources “Sacramento-San Joaquin Delta Atlas,” dated 1993, that is a project facility under the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6), if not less than a majority of the acreage within the jurisdiction of the local agency that maintains the levee is within the primary zone of the delta, as defined in Section 29728 of the Public Resources Code.

SEC. 2. Section 12986 of the Water Code, as amended by Section 2 of Chapter 23 of the Statutes of 2010, is amended to read:

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

- (1) No costs incurred shall be reimbursed if the entire cost incurred per mile of levee is one thousand dollars (\$1,000) or less.
- (2) Fifty percent of any costs incurred in excess of one thousand dollars (\$1,000) per mile of levee shall be reimbursed.
- (3) The maximum total reimbursement from the General Fund shall not exceed two million dollars (\$2,000,000) annually.

(b) This section shall become operative on July 1, 2018.

SEC. 3. Section 12986 of the Water Code, as amended by Section 313 of Chapter 296 of the Statutes of 2011, is amended to read:

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

- (1) No costs incurred shall be reimbursed if the entire cost incurred per mile of project or nonproject levee is one thousand dollars (\$1,000) or less.
- (2) Not more than 75 percent of any costs incurred in excess of one thousand dollars (\$1,000) per mile of project or nonproject levee shall be reimbursed.

(3) (A) As part of the project plans approved by the board, the department shall require the local agency or an independent financial consultant to provide information regarding the agency’s ability to pay for the cost of levee maintenance or improvement. Based on that information, the

department may require the local agency or an independent financial consultant to prepare a comprehensive study on the agency's ability to pay.

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

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

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

(6) All final costs allocated or reimbursed under a plan shall be approved by the Central Valley Flood Protection Board for project and nonproject levee work.

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

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

(c) Reimbursements made pursuant to this section shall reflect the priorities of, and be consistent with, the Delta Plan established pursuant to Chapter 1 (commencing with Section 85300) of Part 4 of Division 35.

(d) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 12987.5 of the Water Code is amended to read:

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

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

(c) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.