

Introduced by Senator Steinberg
(Coauthors: Assembly Members Dickinson and Pan)

February 22, 2013

An act to amend Section 8709.5 of the Water Code, relating to flood protection.

LEGISLATIVE COUNSEL'S DIGEST

SB 753, as introduced, Steinberg. Central Valley Flood Protection Board: encroachments.

Existing law provides for the Central Valley Flood Protection Board with the authority to construct and maintain various flood control works. Existing law authorizes 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. Existing law requires the cease and desist order to be issued only if the person or public agency has failed to respond in a satisfactory manner to a prescribed notice provided as specified.

This bill would authorize notice to be provided by posting a written notice on the structure or facility that would be the subject of the order.

Existing law provides that a cease and desist order is effective upon its issuance and that copies are required to be served immediately by certified mail upon the person or agency subject to the order.

This bill would authorize service of the cease and desist order by posting the order on the structure or facility that is the subject of the order.

Vote: majority. 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 8709.5 of the Water Code is amended to
2 read:

3 8709.5. (a) Notwithstanding Section 8709 or 8709.4, if the
4 board, or the executive officer if delegated authority by the board,
5 determines that any person or public agency has undertaken, or is
6 threatening to undertake, any activity that may encroach on levees,
7 channels, or other flood control works under the jurisdiction of
8 the board, the board or executive officer may issue an order
9 directing that person or public agency to cease and desist. The
10 order may also be issued to enforce any requirement of a permit
11 or any requirement under this part that is subject to the jurisdiction
12 of the board.

13 (b) (1) The cease and desist order shall be issued only if the
14 person or public agency has failed to respond in a satisfactory
15 manner to ~~an~~ *any of the following*:

16 (A) An oral notice given in person or by telephone, followed by
17 a written ~~confirmation~~, *or a confirmation*.

18 (B) A written notice given by certified mail or hand delivered
19 to the landowner or the person performing the activity. ~~The~~

20 (C) A written notice posted on the structure or facility that
21 *would be the subject of the order*.

22 (2) *The notice shall include the following:*

23 (1)

24 (A) A description of the activity that meets the criteria of
25 subdivision (a) of Section 8709.4 or a statement that the described
26 activity constitutes an encroachment that is in violation of this
27 article because it is not authorized by a valid permit.

28 (2)

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

32 (3)

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

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

1 (d) The cease and desist order shall be effective upon its
2 issuance, and copies shall be served immediately by certified mail
3 upon the person or agency subject to the order *or by posting the*
4 *order on the structure or facility that is the subject of the order.*

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