

Date of Hearing: April 24, 2023

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Rebecca Bauer-Kahan, Chair

AB 305 (Villapudua) – As Amended April 17, 2023

SUBJECT: California Flood Protection Bond Act of 2024

SUMMARY: Places a \$4.5 billion flood protection and dam safety improvement bond before the voters on the November 5, 2024, General Election ballot. Specifically, **this bill:**

- 1) Places this \$4.5 billion bond issue before voters on the November 5, 2024 General Election ballot.
- 2) Provides that all funding allocations in this bill shall be available upon appropriation by the Legislature.
- 3) Allocates \$1 billion to the Department of Water Resources (DWR) for multibenefit flood protection projects. Provides that a portion of these be sub-allocated as follows:
 - a) \$50 million to the Central Valley Flood Protection Board (CVFPB) to modernize and update mapping of designated floodways in the Central Valley;
 - b) \$100 million to CVFPB to identify and acquire lands or easements that can be flooded to protect the public, recharge groundwater, restore floodplains, and provide habitat. Priority for these funds shall be for lands near levees that do not meet current standards; and
 - c) \$500 million for multibenefit flood protection projects in the San Joaquin Valley.
- 4) Allocates \$1 billion to DWR to reduce urban flood risk. Provides that funding may be for projects that include stormwater capture and reuse, low-impact development features, restoration of urban streams and watersheds, and debris flow mitigation.
- 5) Allocates \$1 billion to DWR for improvement of dam safety pursuant to the Dam Safety and Climate Resilience Local Assistance Program (Dam Safety Program) established by this bill (see #8, below).
- 6) Allocates \$1 billion to DWR for flood management projects in the Central Valley including, levee setbacks, floodplain restoration, bypasses, groundwater recharge, and land or easement acquisition necessary for these projects.
- 7) Allocates \$500 million to DWR for levee rehabilitation and upgrades.
- 8) Establishes the Dam Safety Program within DWR to provide funding for repairs, rehabilitation, enhancements, and other dam safety projects at existing state jurisdictional dams. Requires that the Dam Safety Program shall afford funding for projects that provide public benefits in the following priority order:
 - a) Protection of public safety;

- b) Water storage restoration;
 - c) Flood risk reduction;
 - d) Enhancement of water supply reliability;
 - e) Enhancement, protection, or restoration of fish and wildlife habitat; and
 - f) Protection of water quality.
- 9) Provides that bonds authorized pursuant to this bill shall be prepared, executed, issued, sold, paid, and redeemed consistent with the General Obligation Bond Law except provisions that require bond funds to only be used to fund or provide grants or loans for capital outlay projects.
- 10) Requires that projects receiving funding from this bill have a 50% nonstate cost share. This requirement may be waived for projects that directly benefit economically distressed areas, disadvantaged communities (DAC), and severely disadvantaged communities (SDAC).
- 11) Provides that up to 5% of the funds may be used for grant program administration.
- 12) Provides that up to 7.5% of the funds may be used for technical assistance and capacity building for economically distressed areas, DACs, and SDACs.
- 13) Provides that bond funds authorized by this bill shall be subject to fiscal provisions that typically apply to general obligation bonds, as specified.
- 14) Defines various terms for the purposes of this bill, including:
- a) DAC as a community with an annual median household income less than 80% of the statewide annual median household income;
 - b) “Economically distressed area” as a city with a population of 20,000 or less, a rural county, or a divisible segment of a larger city with a population of 20,000 or less that has an annual median household income less than 85% of the statewide median and that experiences one of the following hardships as determined by DWR: (1) financial hardship; (2) high unemployment, as specified; or (3) low population density; and
 - c) SDAC as a community with an annual median household income less than 60% of the statewide annual median household income

EXISTING LAW:

- 1) Provides that the Legislature cannot authorize the sale of general obligation bonds in excess of \$300,000 without a two-third’s vote of the Legislature and the approval of a majority of the voters at primary or general election (California Constitution, Article XVI, § 1).
- 2) Specifies the procedure to authorize, issue, prepare, and sell general obligation bonds and places limits on the use of bond funds under the General Obligation Bond Law (Government Code, § 16720 *et seq.*).

- 3) Defines DAC as a community with an annual median household income less than 80% of the statewide annual median household income (Water Code § 79505.5).
- 4) Defines SDAC as a community with an annual median household income less than 60% of the statewide annual median household income (Health and Safety Code § 116760.20)

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** This bill is intended to provide funding for various flood protection and dam safety needs across the state. According to the author, “the storms we experienced in early 2023 showcased decades of underinvestment in our flood management infrastructure across California. This failure resulted in lives lost and billions of dollars of property damage. For these reasons, we need to make long-term investments today to prevent similar future tragedies across our state. As warmer water and rising temperatures increase, it will be even more important that we prepare for future flooding events. [This bill] will ensure the state can adequately protect Californians from future catastrophic flooding by enacting the California Flood Protection Bond Act of 2024.
- 2) **Background.** Local, federal, and state agencies have developed a variety of physical structures to regulate flood flows including levees, channels, and weirs to convey and control floodwaters as well as dams, reservoirs, and bypasses to collect or store water. Physical structures are sometimes paired with nonstructural approaches – like limiting development in floodplains – for flood management. Flood infrastructure across California includes more than 20,000 miles of levees and channels and more than 1,500 dams and reservoirs. Most of these facilities are owned and managed by local governments, reflecting the history of how the facilities were developed and aligning primary responsibility for the projects with their beneficiaries. A recent report estimated that flood management responsibilities are spread across over 1,300 local agencies across the state.

Over 1,600 miles of levees, four dams, five major weirs, and seven bypasses are overseen by the state and are considered part of the State Plan of Flood Control system (SPFC), a system of flood protection infrastructure along the Sacramento and San Joaquin Rivers and their main tributaries. The Central Valley Flood Protection Board (CVFPB) oversees SPFC facilities and levees (often called project levees) on behalf of the state. For most segments of SPFC levees, the state has developed formal agreements with local governments to handle regular operations and maintenance responsibilities. The Department of Water Resources maintains approximately 300 miles of SPFC levee segments not covered by such agreements.

Flood risk and investment need. The level of flood risk in California’s Central Valley is among the highest in the nation. According to the Central Valley Flood Protection Plan 2022 Update (2022 CV Flood Plan), 1.23 million people and more than \$223 billion in structures and property are at risk from flooding. Climate change has exacerbated this flood risk. Analysis done as part of ARkStorm 2.0 indicates that climate change has already increased the frequency and magnitude of severe storms that result in “megaflood” events (Huang and Swain, 2022). To address this risk, the 2022 CV Flood Plan identifies an investment need of \$25 billion to \$30 billion over the next 30 years; an amount that includes an annual need of \$315 million to \$390 million for routine activities.

Proposition 1E and previous bond funding, how much is left? Proposition 1E, the Disaster Preparedness and Flood Prevention Bond Act of 2006, is the last purely flood bond issued and it authorized approximately \$4.1 billion in bond spending for various flood management programs. These included the State Central Valley Flood Control System and Delta Levees (\$3 billion), flood control subventions (\$500 million), stormwater flood management (\$300 million), and statewide flood protection corridors and bypasses (\$290 million). In 2014, voters approved Proposition 1, a \$7.5 billion water bond that included \$395 million for flood management. According to the California Natural Resources Agency's Bond Accountability web site, only \$29 million in funding from Proposition 1E and only \$20 million of the Proposition 1 flood management funds remain uncommitted to projects.

General obligation bonds. General obligation bonds are debt that is secured by the General Fund; the debt service on bonds issued by the state must be paid on an annual basis. Fully paying off a bond issue can take decades (sometimes 30+ years). Bonds issued by the State of California are able to obtain favorable financing because interest on these bonds is tax exempt (i.e., investors are willing to offer lower financing rates because they do not pay income tax on gains from their investment).

Per the California Constitution, voters must approve general obligation bonds in excess of \$300,000. There are two pathways to the ballot for general obligation bonds that exceed this \$300,000 threshold: 1) through an act of the Legislature; and, 2) via the citizens' initiative process.

What can bonds be used for? Typically, general obligation bond are used to pay for public benefits derived from planning, constructing, and renovating infrastructure including dams, bridges, prisons, parks, schools, and buildings. The General Obligation Bond Law provides that bonds can only be used to pay for or provide grants or loans for the construction or acquisition of "capital assets" and defines "capital assets" as "tangible physical property with an expected useful life of 15 years or more," major maintenance necessary between 5 to 15 years to extend the useful life of a "capital asset," or equipment with an expected useful life greater than 2 years [Government Code, Section 16727(a) and (b)]. Because of these restrictions on the use of bond funds, and others in federal law governing tax exempt bonds, the state typically uses bonds to pay for projects that provide benefits over many years as opposed to paying for ongoing operations and maintenance costs. While this bill exempts itself from Government Code, Section 16727(a) and (b) of the General Obligation Bond Law (as have previous water and natural resource bonds), in practice, bond funds are only used for purposes that have long-term, public benefits.

- 3) **Suggested committee amendments.** This bill contemplates a massive investment in infrastructure and represents a tremendous opportunity to create job opportunities, particularly for DACs and under-represented groups; however, this bill does not state a policy goal to achieve this outcome. The Committee may wish to consider asking the author to provide such a policy direction. The following amendments will help achieve this goal:

Amendment 1 – Amend Water Code Section 84001 as follows:

84001. To the extent practicable, a project that receives moneys pursuant to this division shall provide workforce education and training, contractor, and job opportunities for vulnerable populations or socially disadvantaged groups.

84001.5.

Amendment 2 – add definition of “socially disadvantaged group” to Water Code, Section 84001.5 as follows:

“Socially disadvantaged group” means a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups include all of the following:

(1) African Americans.

(2) Native Americans.

(3) Alaskan Natives.

(4) Hispanics.

(5) Asian Americans.

(6) Native Hawaiians and Pacific Islanders.

(7) Women.

- 4) **Related legislation.** AB 1567 (Garcia) of the current legislative session places a \$15.105 billion climate resilience bond before voters on the March 5, 2024, Primary Election ballot. AB 1567 is pending in the Assembly Natural Resources Committee.

SB 638 (Eggman) of the current legislative session places a \$6 billion climate resilience and flood protection bond before voters on the November 5, 2024 General Election ballot. SB 638 is pending in the Senate Appropriations Committee.

SB 867 (Allen) of the current legislative session places a climate resilience bond in an unspecified amount before voters at an unspecified statewide election. SB 867 is pending in the Senate Appropriations Committee.

AB 1471 (Rendon), Chapter 188, Statutes of 2014, placed a \$7.1 billion water bond (Proposition 1) before voters on the November 4, 2014 General Election. Voters approved Proposition 1 by a margin of 67% to 33%.

AB 140 (Nunez), Chapter 33, Statutes of 2006, placed a \$4.1 billion flood protection bond (Proposition 1E) before voters on the November 7, 2006 General Election ballot. Voters approved Proposition 1E by a margin of 64% to 36%.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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