

Date of Hearing: June 20, 2023

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Rebecca Bauer-Kahan, Chair

SB 586 (Eggman) – As Amended May 2, 2023

SENATE VOTE: 40-0

SUBJECT: Flood management: deadlines

SUMMARY: Eliminates deadlines for Mossdale Tract and the City of West Sacramento to meet urban level of flood protection and replaces them with a requirement that flood management agencies for these areas demonstrate ongoing engagement with the federal government to complete a project to meet urban level of flood protection. Specifically, **this bill:**

- 1) Deletes the 2028 deadline for Mossdale Tract to achieve urban level of flood protection.
- 2) Deletes the 2030 deadline for the City of West Sacramento to achieve urban level of flood protection.
- 3) Provides that Mossdale Tract and City of West Sacramento do not need to meet the deadline to achieve urban level of protection, or make adequate progress on achieving this standard, so long as the flood management agency has one of the following:
 - a) An active federal study;
 - b) A completed federal study awaiting congressional authorization; or
 - c) An authorized federal project awaiting federal appropriations.
- 4) Provides that the San Joaquin Area Flood Control Agency or West Sacramento Area Flood Control Agency shall assume a fair and reasonable share of flood liability for Mossdale Tract and the City of West Sacramento beginning January 1, 2025 and ending when urban level of flood protection for those areas is achieved.
- 5) Defines “City of West Sacramento” and “Mossdale Tract” for purposes of this bill.
- 6) Makes technical and conforming changes.

EXISTING LAW:

- 1) Provides the Department of Water Resources (DWR) with authority to plan and fund projects to protect lands subject to flooding and to maintain and operate specified facilities of the Sacramento River Flood Control Project (Water Code §§ 8330 *et seq.* and 8360 *et seq.*).
- 2) Defines “State Plan of Flood Control” as the state and federal flood control works, lands, programs, plans, conditions, and modes of maintenance and operations of the Sacramento River Flood Control Project and authorizes flood control projects in the Sacramento River and San Joaquin River watersheds for which the Central Valley Flood Protection Board (CVFPB) or DWR has provided the assurances of nonfederal cooperation to the United States (Public Resources Code § 5096.805).

- 3) Provides that a city or county may be required to contribute its fair and reasonable share of the property damage caused by a flood to the extent to which that city or county has increased the state's exposure to liability for property damage by unreasonably approving a new development in an area protected by a state flood control project (Water Code § 8307).
- 4) Charges CVFPB with ensuring that appropriate standards are met for the construction, maintenance, and protection of flood infrastructure for the Central Valley (Water Code § 8590 *et seq.*).
- 5) Requires CVFPB to adopt the Central Valley Flood Protection Plan (CV Flood Plan) prepared by DWR after holding two public hearings by January 1, 2012 and to update the CV Flood Plan every five years thereafter (Water Code § 9603 *et seq.*).
- 6) Defines "urban level of flood protection" as the level of protection necessary to withstand a flood event that has a 1-in-200 chance of occurring in any given year (Water Code § 9602).
- 7) Prohibits a city or county in the Sacramento-San Joaquin Valley from approving a new subdivision, a new development, or an increase in housing density within an existing development unless the city or county finds that flood management facilities protect the property where one of those actions is proposed to the "urban level of flood protection" or that the local flood management agency has made "adequate progress" towards achieving "urban level of flood protection" (Government Code §§ 65865.5 and 65962).
- 8) Requires urban or urbanizing areas protected by a levee that is part of the State Plan of Flood Control (generally, throughout the Sacramento-San Joaquin Valley) to achieve "urban level of flood protection" by 2025 (Government Code § 65962).
- 9) Permits Mossdale Tract to achieve the urban level of flood protection standard in 2028 (Government Code § 65962.1) and the City of West Sacramento to achieve it in 2030 (Government Code § 65962.2).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the author, local flood management agencies benefit from working with the U.S. Army Corps of Engineers and federal government on flood protection projects because the federal government will cover up to 65% of a flood protection project's cost. However, the author notes that this federal process can be sluggish and flood projects in areas like Lathrop, Manteca, Sacramento, Stockton, and West Sacramento are in danger of missing the deadline to achieve urban level of flood protection as a result: local flood management agencies "struggle to demonstrate adequate progress while engaged in this collaborative approach through no fault of their own because of the pace of the [U.S. Army Corps of Engineers]." The author argues this bill is necessary because if "the adequate progress standard is not updated to allow more time and flexibility to [local flood management agencies], the state risks losing out on billions of dollars of federal investments and puts vulnerable communities at risk of catastrophic flood damage which is an inevitability given current climate change projections."

- 2) **Background.** Today, the level of flood risk in California’s Central Valley is among the highest in the nation. According to the *CV Flood Plan 2022 Update*, 1.23 million people and more than \$223 billion in structures and property are at risk from flooding. With historic storms like the Great Flood of 1862 and even more recent events like the series of atmospheric river-fed storms from winter 2023, human-made flood management efforts struggle to compete against the natural state of the Central Valley. 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.¹ Perhaps more concerning relative to this bill, the researchers that produced ARkStorm 2.0 conclude “that extremely severe winter storm sequences once thought to be exceptionally rare events are likely to become much more common under essentially all plausible future climate trajectories—suggesting the 20th century hazard mapping, emergency response plans, and even physical infrastructure design standards may already be out of date in a warmer 21st century climate.”²

Urban level of flood protection. Cities and counties in the Sacramento-San Joaquin Valley that are protected by the State Plan of Flood Control are prohibited from approving new development or increasing the housing density within existing developments unless there is flood protection that meets the “urban level of flood protection” (i.e., the level of protection necessary to withstand a flood event that has a 1-in-200 chance of occurring in any given year). Areas that do not have urban level of flood protection must achieve, or make adequate progress towards achieving, the urban level of flood protection by 2025. These requirements were enacted by the Legislature in 2007 as part of a comprehensive flood package resulting from increased awareness of the flood threat to Central Valley communities in the wake of Hurricane Katrina.

Recently, the Legislature passed AB 838 (Eggman) in 2020 and SB 901 (Pan) in 2022 to extend the deadlines to meet urban level of flood protection for Mossdale Tract (in San Joaquin County) and the City of West Sacramento because the flood management agencies for these areas had experienced unforeseen delays in making progress toward achieving the urban level of flood protection. AB 838 extended the deadline for Mossdale by three years to 2028 and SB 901 extended the deadline for the City of West Sacramento by five years to 2030. Under AB 838 and SB 901, the flood management agencies for Mossdale Tract and the City of West Sacramento are liable for their “fair and reasonable share of any property damage caused by a flood” that occurs between 2025 and the new deadlines. This bill removes the (extended) deadlines for these two areas to achieve urban level of flood protection and, instead, imposes a requirement that so long as the flood management agencies for these areas are working with the federal government on a flood protection project for the area, they may continue to develop.

Mossdale Tract Area Urban Flood Risk Reduction Project. Mossdale Tract consists of 22,400 acres and includes portions of Reclamation District 17 (RD 17), Stockton, Lathrop, Manteca, and unincorporated San Joaquin County. According to the San Joaquin Area Flood Control Agency (SJAFC), the existing levees for the Mossdale Tract area do not provide 200-year flood protection as required by state law. To address this deficiency, SJAFC is

¹ Xingying Huang and Daniel Swain, “Climate change is increasing the risk of a California megaflood,” *Science Advances* 8, no. 31 (2022).

² *Ibid.*, 10.

working with RD 17 to improve Mossdale Tract's levees through an ongoing Levee Seepage Repair Project, levee improvements, and an extension of existing levee in Manteca. SJAFCA has completed a feasibility study for this project and is now performing a design and environmental impact report for the project. Additionally, SJAFCA and DWR are partnering with U.S. Army Corps of Engineers to obtain federal construction funding. In 2022, a federal study was initiated and must be completed and presented to Congress for authorization and appropriations. The study is expected to be completed in 2026.

West Sacramento Project for flood risk reduction. This project encompasses upgrades to over 50 miles of levees that protect the City of West Sacramento and its more than 50,000 residents from flooding that has a 1-in-200 chance of occurring in a given year. The estimated cost for the West Sacramento Project is \$1.2 billion. The original federal authorization was in the Water Resource Development Act of 1992 (PL 102-580). The U.S. Army Corps of Engineers reassessed this project in the General Reevaluation Report (GRR) that was submitted to Congress in January 2016; subsequently, the Water Resources Infrastructure Improvement for the Nation Act of 2016 updated the Project's federal authorization to reflect changes recommended by the GRR.

- 3) **Arguments in support.** The California Central Valley Flood Control Association (CCVFCA) supports this bill arguing that local flood control agencies face many challenges in meeting statutory deadlines to complete flood protection projects due to delays in obtaining federal authorization, project funding, and permit approvals. To finance flood protection projects, local agencies often rely "on the improvement of real property like new housing projects to raise money for local agency cost sharing of project costs." Given this, CCVFCA asserts that "the imposition of a building moratorium during the course of project development would halt progress toward completing a project."
- 4) **Related legislation.** SB 901 (Pan), Chapter 708, Statutes of 2022, updates the authorization for the West Sacramento Project for flood risk reduction and extends the deadline for the City of West Sacramento to achieve urban level of flood protection to 2030.

AB 838 (Eggman), Chapter 208, Statutes of 2020, extends the date for the Mossdale Tract in San Joaquin County to reach urban level of flood protection from 2025 to 2028.

SB 580 (Pan), Chapter 309, Statutes of 2017, revises the authorization for the flood control project along the American and Sacramento Rivers, and the Natomas Basin, as further modified by Congress.

SB 5 (Machado), Chapter 364, Statutes of 2007, requires DWR and CVFPB to prepare and adopt a CV Flood Plan by 2012, and establishes certain flood protection requirements for certain local land-use decisions consistent with the CV Flood Plan.

REGISTERED SUPPORT / OPPOSITION:

Support

Business Council San Joaquin County
California Building Industry Association
California Central Valley Flood Control Association
City of Manteca

Opposition

None on file

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