

Senate Bill No. 5

CHAPTER 364

An act to add Sections 65007, 65302.9, 65860.1, 65865.5, 65962, and 66474.5 to, the Government Code, to add Section 50465 to the Health and Safety Code, and to add Chapter 4 (commencing with Section 8200) to Part 1 of, and to add Part 6 (commencing with Section 9600) to, Division 5 of, the Water Code, relating to flood management.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 5, Machado. Flood management.

(1) The Planning and Zoning Law requires a city, county, and city and county to adopt a comprehensive, long-term general plan for the physical development of the city, county, or city and county that addresses a number of elements. The law authorizes the legislative body of a city or county to adopt zoning ordinances regulating, among other things, the use of buildings, structures, and land. The law authorizes a city or county to enter into a development agreement with a person having a legal or equitable interest in real property for the development of the property.

This bill would require each city, including a charter city, and county within the Sacramento-San Joaquin Valley, within 24 months of the adoption of a specified flood protection plan by the Central Valley Flood Protection Board, to amend its general plan to include data and analysis contained in that flood protection plan, goals and policies for the protection of lives and property that will reduce the risk of flood damage, and related feasible implementation measures. The bill would require each city, including a charter city, and county within the Sacramento-San Joaquin Valley, within 36 months of the adoption of that flood protection plan but not more than 12 months after the amendment of the general plan under the bill's provisions, to amend its zoning ordinance so that it is consistent with the general plan, as amended. By establishing requirements on cities and counties, the bill would impose a state-mandated local program.

On the effective date of those amendments, a city, including a charter city, and county within the Sacramento-San Joaquin Valley would be prohibited from entering a development agreement for any property that is located within a flood hazard zone unless the city or county makes certain findings, based on substantial evidence. On the effective date of those amendments, a city, including a charter city, and county within the Sacramento-San Joaquin Valley would also be prohibited from approving any discretionary permit or entitlement, or any ministerial permit that would result in the construction of a new residence, for a project that is located

within a flood hazard zone unless the city or county makes certain findings, based on substantial evidence.

(2) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map, or a parcel map for which a tentative map was not required under certain circumstances.

The bill, after the amendments to the general plan and the zoning ordinance described in (1) have become effective, would require the legislative body of each city, including a charter city, and county within the Sacramento-San Joaquin Valley to deny approval of a tentative map, or a parcel map for which a tentative map was not required, for any subdivision that is located within a flood hazard zone unless the city or county makes specified findings, based on substantial evidence.

(3) The Department of Water Resources performs various flood control activities throughout the state. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River and San Joaquin River, their tributaries, and related areas.

This bill would require the department, on or before December 31, 2010, to prepare a strategic flood protection plan for the Sacramento-San Joaquin Valley. The department would be required to prepare a plan identified as the Central Valley Flood Protection Plan not later than January 1, 2012, and the Central Valley Flood Protection Board would be required to adopt the plan not later than July 1, 2012. The bill would require the plan to include specified components, including a description of the Sacramento-San Joaquin River Flood Management System, a description of the facilities included in the State Plan of Flood Control, an evaluation of the structural improvements necessary to bring each of the facilities of the State Plan of Flood Control to within its design standard, and a list of facilities recommended to be removed from the State Plan of Flood Control. The plan would be required to be updated every 5 years.

The bill would authorize the department to implement certain flood protection improvements before the adoption of the plan if the Director of Water Resources makes a specified determination. Upon the adoption of the plan by the board, certain facilities would be deemed to be a part of the Sacramento-San Joaquin River Flood Management System, and the board would be required to take action necessary to remove facilities from the State Plan of Flood Control that are recommended for removal in the plan.

The bill would require the department, on or before January 1, 2009, to propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where levels are anticipated to exceed 3 feet for the 200-year flood event. The department would be required to develop a cost-sharing formula for specified bond funds for repairs or improvements of facilities included in the plan.

The bill would require each county, consistent with the adoption of the plan, to collaborate with cities within its jurisdiction to develop flood emergency plans. The bill would require each city, including a charter city,

and county, consistent with the adoption of the plan, to collaborate with the state and local flood management agencies to provide cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas and to develop funding mechanisms to finance local flood protection responsibilities. By establishing new land use planning requirements on cities and counties, the bill would impose a state-mandated local program. The bill would authorize a local agency to prepare a local plan of flood protection in accordance with specified requirements.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) The bill would become operative only if AB 162 and SB 17 are enacted and become operative.

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

SECTION 1. Section 65007 is added to the Government Code, to read: 65007. As used in this title, the following terms have the following meanings, unless the context requires otherwise:

(a) “Adequate progress” means all of the following:

(1) The total project scope, schedule, and cost of the completed flood protection system have been developed to meet the appropriate standard of protection.

(2) Revenues sufficient to fund each year of the project schedule developed in paragraph (1) have been identified and, in any given year and consistent with that schedule, at least 90 percent of the revenues scheduled to have been received by that year have been appropriated and are currently being expended.

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

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

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

(b) “Central Valley Flood Protection Plan” has the same meaning as that set forth in Section 9610 of the Water Code.

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

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

(e) “Nonurbanized area” means a developed area or an area outside a developed area in which there are less than 10,000 residents.

(f) “Project levee” means any levee that is part of the facilities of the State Plan of Flood Control, as defined in Section 5096.805 of the Public Resources Code.

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

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

(i) “Urban area” means a developed area in which there are 10,000 residents or more.

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

(k) “Urban level of flood protection” means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources.

SEC. 2. Section 65302.9 is added to the Government Code, to read:

65302.9. (a) Within 24 months of the adoption of the Central Valley Flood Protection Plan by the Central Valley Flood Protection Board pursuant to Section 9612 of the Water Code, each city and county within the Sacramento-San Joaquin Valley, shall amend its general plan to contain all of the following:

(1) The data and analysis contained in the Central Valley Flood Protection Plan, including, but not limited to, the locations of the facilities of the State Plan of Flood Control, the locations of other flood management facilities, the locations of the real property protected by those facilities, and the locations of flood hazard zones.

(2) Goals, policies, and objectives, based on the data and analysis identified pursuant to paragraph (1), for the protection of lives and property that will reduce the risk of flood damage.

(3) Feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to paragraph (2).

(b) To assist each city or county in complying with this section, the Central Valley Flood Protection Board, the Department of Water Resources,

and local flood agencies shall collaborate with cities or counties by providing them with information and other technical assistance.

(c) In implementing this section, each city and county, both general law and charter, within the Sacramento-San Joaquin Valley, shall comply with this article, including, but not limited to, Sections 65300.5, 65300.7, 65300.9, and 65301.

(d) Notwithstanding any other provision of law, this section applies to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 3. Section 65860.1 is added to the Government Code, to read:

65860.1. (a) Within 36 months of the adoption Central Valley Flood Protection Plan by the Central Valley Flood Protection Board pursuant to Section 9612 of the Water Code, but not more than 12 months after the amendment of its general plan pursuant to Section 65302.9, each city and county within the Sacramento-San Joaquin Valley shall amend its zoning ordinance so that it is consistent with the general plan, as amended.

(b) Notwithstanding any other provision of law, this section applies to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 4. Section 65865.5 is added to the Government Code, to read:

65865.5. (a) Notwithstanding any other provision of law, after the amendments required by Section 65302.9 and 65860.1 have become effective, the legislative body of a city or county within the Sacramento-San Joaquin Valley shall not enter into a development agreement for any property that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the development agreement that will protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system.

For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 5. Section 65962 is added to the Government Code, to read:

65962. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, each city and county within the Sacramento-San Joaquin Valley shall not approve any discretionary permit or other discretionary entitlement, or any ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the permit or discretionary entitlement that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances,

resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 6. Section 66474.5 is added to the Government Code, to read:

66474.5. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, the legislative body of each city and county within the Sacramento-San Joaquin Valley shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, for any subdivision that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the subdivision to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the subdivision that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 7. Section 50465 is added to the Health and Safety Code, to read:

50465. (a) On or before January 1, 2009, the Department of Water Resources shall propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where flood levels are anticipated to exceed three feet for the 200-year flood event. The amendments to the California Building Standards Code shall be sufficient to reduce the risk of flood damage and to protect life, safety, and the construction in those areas.

(b) Before the department proposes the amendments to the California Building Standards Code required pursuant to subdivision (a), the department

shall consult with the Central Valley Flood Protection Board, the Division of the State Architect, and the Office of the State Fire Marshal.

SEC. 8. Chapter 4 (commencing with Section 8200) is added to Part 1 of Division 5 of the Water Code, to read:

CHAPTER 4. LOCAL PLANS OF FLOOD PROTECTION

8200. This chapter shall be known and may be cited as the Local Flood Protection Planning Act.

8201. (a) A local agency may prepare a local plan of flood protection in accordance with this chapter.

(b) A local plan of flood protection shall include all of the following:

(1) A strategy to meet the urban level of flood protection, including planning for residual flood risk and system resiliency.

(2) Identification of all types of flood hazards.

(3) Identification and risk assessment of the various facilities that provide flood protection for flood hazard areas, for current and future land uses.

(4) Identification of current and future flood corridors.

(5) Identification of needed improvements and costs of those improvements to the flood protection facilities that are necessary to meet flood protection standards.

(6) An emergency response and evacuation plan for flood-prone areas.

(7) A strategy to achieve multiple benefits, including flood protection, groundwater recharge, ecosystem health, and reduced maintenance costs over the long term.

(8) A long-term funding strategy for improvement and ongoing maintenance and operation of flood protection facilities.

(c) A local agency that is not a city or county that prepares a plan pursuant to this chapter must consult with the cities and counties that have jurisdiction over the planning area to assure that the local plan of flood protection is consistent with local general plans.

(d) Plans prepared pursuant to this chapter, within the Sacramento-San Joaquin Valley as defined by Section 9602, shall be consistent with the Central Valley Flood Protection Plan pursuant to Section 9610.

SEC. 9. Part 6 (commencing with Section 9600) is added to Division 5 of the Water Code, to read:

PART 6. CENTRAL VALLEY FLOOD PROTECTION

CHAPTER 1. GENERAL PROVISIONS

9600. This act shall be known and may be cited as the Central Valley Flood Protection Act of 2008.

9601. The Legislature finds and declares all of the following:

(a) The Central Valley of California is experiencing unprecedented development, resulting in the conversion of historically agricultural lands and communities to densely populated residential and urban centers.

(b) The Legislature recognizes that by their nature, levees, which are earthen embankments typically founded on fluvial deposits, cannot offer complete protection from flooding, but can decrease its frequency.

(c) The Legislature recognizes that the level of flood protection afforded rural and agricultural lands by the original flood control system would not be adequate to protect those lands if they are developed for urban uses, and that a dichotomous system of flood protection for urban and rural lands has developed through many years of practice.

(d) The Legislature further recognizes that levees built to reclaim and protect agricultural land may be inadequate to protect urban development unless those levees are significantly improved.

(e) Cities and counties rely upon federal flood plain information when approving developments, but the information available is often out of date and the flood risk may be greater than that indicated using available federal information.

(f) The Legislature recognizes that the current federal flood standard is not sufficient in protecting urban and urbanizing areas within flood prone areas throughout the Central Valley.

(g) Linking land use decisions to flood risk and flood protection estimates comprises only one element of improving lives and property in the Central Valley. Federal, state, and local agencies may construct and operate flood protection facilities to reduce flood risks, but flood risks will nevertheless remain for those who choose to reside in Central Valley flood plains. Making those flood risks more apparent will help ensure that Californians make careful choices when deciding whether to build homes or live in Central Valley flood plains, and if so, whether to prepare for flooding or maintain flood insurance.

9602. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this part.

(a) “Board” means the Central Valley Flood Protection Board.

(b) “Plan” means the Central Valley Flood Protection Plan.

(c) “Project levee” means any levee that is part of the facilities of the State Plan of Flood Control, as defined in Section 5096.805 of the Public Resources Code.

(d) “Public safety infrastructure” means public safety infrastructure necessary to respond to a flood emergency, including, but not limited to, street and highway evacuation routes, public utilities necessary for public health and safety, including drinking water and wastewater treatment facilities, and hospitals.

(e) “Sacramento-San Joaquin Valley” means any lands in the bed or along or near the banks of the Sacramento River or San Joaquin River, or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom. The Sacramento-San Joaquin Valley

does not include lands lying within the Tulare Lake basin, including the Kings River.

(f) “State Plan of Flood Control” has the meaning set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(g) “System” means the Sacramento-San Joaquin River Flood Management System described in Section 9611.

(h) “Urban area” has the same meaning as that set forth in subdivision (k) of Section 5096.805 of the Public Resources Code.

(i) “Urban level of flood protection” means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the department.

9603. (a) The Central Valley Flood Protection Plan shall be a descriptive document, and neither the plan nor anything in this part shall be construed to expand the liability of the state for the operation or maintenance of any flood management facility beyond the scope of the State Plan of Flood Control, except as specifically determined by the board pursuant to Section 9611. Neither the development nor the adoption of the Central Valley Flood Protection Plan shall be construed to constitute any commitment by the state to provide, to continue to provide, or to maintain at, or to increase flood protection to, any particular level.

(b) The Central Valley Flood Protection Plan reflects a systemwide approach to protecting the lands currently protected from flooding by existing facilities of the State Plan of Flood Control. Any flood protection benefits accruing to lands or communities outside the State Plan of Flood Control are incidental and shall not constitute any commitment by the state to provide, to continue to provide, or to maintain at, or to increase flood protection to, any particular level.

CHAPTER 2. PLAN DEVELOPMENT

9610. (a) By July 1, 2008, the department shall develop preliminary maps for the 100 and 200 year floodplains protected by project levees. The 100 year floodplain maps shall be prepared using criteria developed or accepted by the Federal Emergency Management Agency (FEMA).

(1) The department shall use available information from the 2002 Sacramento-San Joaquin River Basin Comprehensive Study, preliminary and regulatory FEMA flood insurance rate maps, recent floodplain studies and other sources to compile preliminary maps.

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

(3) The department shall post this information on the boards Internet Web site and may periodically update the maps as necessary.

(b) By July 1, 2008, the department shall give notice to cities in the Sacramento-San Joaquin Valley outside areas protected by project levees

regarding maps and other information as to flood risks available from the Federal Emergency Management Agency or other federal, state or local agency.

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

9611. The Sacramento-San Joaquin River Flood Management System comprises all of the following:

(a) The facilities of the State Plan of Flood Control as that plan may be amended pursuant to this part.

(b) Any existing dam, levee, or other flood management facility that is not part of the State Plan of Flood Control if the board determines, upon recommendation of the department, that the facility does one or more of the following:

(1) Provides significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley.

(2) Protects urban areas within the Sacramento-San Joaquin Valley.

(c) Upon completion of the Central Valley Flood Protection Plan pursuant to this part, the department may identify and propose to the board additional structural and nonstructural facilities that may become facilities of the State Plan of Flood Control, consistent with the Central Valley Flood Protection Plan. The board may add those facilities to the State Plan of Flood Control based on a determination showing how the facility accomplishes the purposes identified in subdivision (b).

(d) For the purposes of subdivision (c), facilities that may become facilities of the State Plan of Flood Control include bypasses, floodway corridors, flood plain storage, or other projects that expand the capacity of the flood protection system in the Sacramento-San Joaquin Valley to provide flood protection.

9612. (a) The department shall prepare, and the board shall adopt, a plan identified as the Central Valley Flood Protection Plan in accordance with this part.

(b) No later than January 1, 2012, the department shall prepare the Central Valley Flood Protection Plan in accordance with this part, and shall transmit the plan to the board, which shall adopt the plan no later than July 1, 2012.

(c) The board shall hold at least two hearings to receive comments on the proposed plan. At least one hearing shall be held in the Sacramento Valley and at least one hearing shall be held in the San Joaquin Valley. The board shall also accept comments in writing with regard to the proposed plan.

(d) The board may make changes to the proposed plan to resolve issues raised in the hearings or to respond to comments received by the board. The board shall publish its proposed changes to the proposed plan at least two weeks before adopting the plan.

(e) The plan shall be updated in subsequent years ending in 2 and 7.

(f) The department or the board may appoint one or more advisory committees to assist in the preparation of the plan. If the department or the board appoints one or more advisory committees, the advisory committee or committees shall include representation by interested organizations.

9613. (a) Consistent with subdivision (b) of Section 5096.821 of the Public Resources Code, the department may implement flood protection improvements for urban areas protected by facilities of the State Plan of Flood Control before the adoption of Central Valley Flood Protection Plan if the director determines, in writing, that all of the following apply:

(1) The improvements are necessary and require state funding before the completion of the Central Valley Flood Protection Plan prepared pursuant to Section 9612.

(2) The improvements will reduce or avoid risk to human life in one or more urban areas.

(3) The improvements will not impair or impede future changes to regional flood protection or the Central Valley Flood Protection Plan.

(4) The improvements will be maintained by a local agency that has committed sufficient funding to maintain both the existing and improved facilities of the State Plan of Flood Control.

(5) The affected cities, counties, and other public agencies will have sufficient revenue resources for the operation and maintenance of the facility.

(6) Upon the allocation of funds for a project, the proposed project is ready for implementation.

(7) The improvements comply with existing law.

(b) The flood protection improvements authorized by this section may include improvements to specific facilities of the State Plan of Flood Control or acquisition of flood easements for floodways that support facilities of the State Plan of Flood Control to increase levels of flood protection for urban areas in accordance with subdivision (b) of Section 5096.821 of the Public Resources Code.

(c) The department and the board shall investigate and evaluate the feasibility of potential bypasses or floodways that would significantly reduce flood stage in the San Joaquin River Watershed, upstream and south of Paradise Cut.

9614. The plan shall include all of the following:

(a) A description of the Sacramento-San Joaquin River Flood Management System and the cities and counties included in the system.

(b) A description of the performance of the system and the challenges to modifying the system to provide appropriate levels of flood protection using available information.

(c) A description of the facilities included in the State Plan of Flood Control, including all of the following:

(1) The precise location and a brief description of each facility, a description of the population and property protected by the facility, the system benefits provided by the facility, if any, and a brief history of the facility, including the year of construction, major improvements to the facility, and any failures of the facility.

- (2) The design capacity of each facility.
- (3) A description and evaluation of the performance of each facility, including the following:
 - (A) An evaluation of failure risks due to each of the following:
 - (i) Overtopping.
 - (ii) Under seepage and seepage.
 - (iii) Structural failure.
 - (iv) Other sources of risk, including seismic risks, that the department or the board determines are applicable.
 - (B) A description of any uncertainties regarding performance capability, including uncertainties arising from the need for additional engineering evaluations or uncertainties arising from changed conditions such as changes in estimated channel capacities.
 - (d) A description of each existing dam that is not part of the State Plan of Flood Control that provides either significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley or protects urban areas within the Sacramento-San Joaquin Valley.
 - (e) A description of each existing levee and other flood management facility not described in subdivision (d) that is not part of the State Plan of Flood Control that provides either significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley or protects an urban area as defined by subdivision (k) of Section 5096.805 of the Public Resources Code.
 - (f) A description of the probable impacts of projected climate change, projected land use patterns, and other potential flood management challenges on the ability of the system to provide adequate levels of flood protection.
 - (g) An evaluation of the structural improvements and repairs necessary to bring each of the facilities of the State Plan of Flood Control to within its design standard. The evaluation shall include a prioritized list of recommended actions necessary to bring each facility not identified in subdivision (h) to within its design standard.
 - (h) The evaluation shall include a list of facilities recommended to be removed from the State Plan of Flood Control. For each facility recommended for removal, the evaluation shall identify both of the following:
 - (1) The reasons for proposing the removal of the facility from the State Plan of Flood Control.
 - (2) Any additional recommended actions associated with removing the facility from the State Plan of Flood Control.
 - (i) A description of both structural and nonstructural methods for providing an urban level of flood protection to current urban areas where an urban area means the same as set forth in subdivision (k) of Section 5096.805 of the Public Resources Code. The description shall also include a list of recommended next steps to improve urban flood protection.
 - (j) A description of structural and nonstructural means for enabling or improving systemwide riverine ecosystem function, including, but not

limited to, establishment of riparian habitat and seasonal inundation of available flood plains where feasible.

9615. For the purposes of preparing the plan, the department shall collaborate with the United States Army Corps of Engineers and the owners and operators of flood management facilities.

9616. (a) The plan shall include a description of both structural and nonstructural means for improving the performance and elimination of deficiencies of levees, weirs, bypasses, and facilities, including facilities of the State Plan of Flood Control, and, wherever feasible, meet multiple objectives, including each of the following:

(1) Reduce the risk to human life, health, and safety from flooding, including protection of public safety infrastructure.

(2) Expand the capacity of the flood protection system in the Sacramento-San Joaquin Valley to either reduce floodflows or convey floodwaters away from urban areas.

(3) Link the flood protection system with the water supply system.

(4) Reduce flood risks in currently nonurbanized areas.

(5) Increase the engagement of local agencies willing to participate in improving flood protection, ensuring a better connection between state flood protection decisions and local land use decisions.

(6) Improve flood protection for urban areas to the urban level of flood protection.

(7) Promote natural dynamic hydrologic and geomorphic processes.

(8) Reduce damage from flooding.

(9) Increase and improve the quantity, diversity, and connectivity of riparian, wetland, flood plain, and shaded riverine aquatic habitats, including the agricultural and ecological values of these lands.

(10) Minimize the flood management system operation and maintenance requirements.

(11) Promote the recovery and stability of native species populations and overall biotic community diversity.

(12) Identify opportunities and incentives for expanding or increasing use of floodway corridors.

(13) Provide a feasible, comprehensive, and long-term financing plan for implementing the plan.

(14) Identify opportunities for reservoir reoperation in conjunction with groundwater flood storage.

(b) The plan shall include a prioritized list of recommended actions to reduce flood risks and meet the objectives described in subdivision (a).

CHAPTER 3. PLAN IMPLEMENTATION

9620. Upon the adoption of the plan by the board, all of the following apply:

(a) The facilities identified pursuant to subdivision (a) of Section 9614 shall be deemed to be part of the system.

(b) The board shall act on the recommendations to remove facilities identified pursuant to subdivision (h) of Section 9614 from the State Plan of Flood Control.

(c) The department shall develop a recommended schedule and funding plan to implement the recommendations of the plan. To develop the recommended schedule and funding plan, the department may collaborate with local and federal agencies.

9621. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each county shall collaborate with cities within its jurisdiction to develop flood emergency plans within 24 months of the adoption of the plan.

9622. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to provide relocation assistance or other cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas.

9623. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to develop funding mechanisms to finance local flood protection responsibilities by January 1, 2010.

9624. Notwithstanding any other provision of law, this part applies to all cities, including charter cities, and counties included in the plan pursuant to Section 9614. The Legislature finds and declares that flood protection in the Sacramento-San Joaquin Valley is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

9625. (a) By January 1, 2010, the department shall develop cost-sharing formulas, as needed, for funds made available by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) for repairs or improvements of facilities included in the plan to determine the local share of the cost of design and construction.

(b) The cost-share formulas developed by the department shall be established pursuant to Section 12585.7.

(c) In developing cost-share formulas, the department shall consider the ability of local governments to pay their share of the capital costs of the project.

(d) Prior to finalizing cost-share formulas, the department shall conduct public meetings to consider public comments. The department shall post the draft cost-share formula on its Internet Web site at least 30 days before the public meetings. To the extent feasible, the department shall provide

outreach to disadvantaged communities to promote access and participation in the meetings.

SEC. 10. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 11. This act shall become operative only if Assembly Bill 162 and Senate Bill 17 of the 2007–08 Regular Session of the Legislature are enacted and become operative.

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