



YOLO BYPASS  
January 8, 2006

# Recent Legislation Affecting the Yolo Bypass

**SB 5**

**AB 5**

**AB 156**

**AB 162**

**SB17**

**SB XX1**

# Senate Bill 5

**Requires the Department of Water Resources (DWR) and the Central Valley Flood Protection Board (Board) to prepare and adopt a Central Valley Flood Protection Plan (CVFPP) by 2012, and establishes certain flood protection requirements for certain local land-use decisions consistent with the CVFPP**

# Senate Bill 5

continued

- **Defines:**
- **“Adequate progress”**
- **“Central Valley Flood Protection Plan”.**
- **“Developed area”**
- **“Flood hazard zone”** subject to flooding that is delineated as either a special hazard area or an area of moderate hazard on an official FIRM issued by the Federal Emergency Management Agency.
- **“Nonurbanized area”**
- **“Project levee”** 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
- **“Sacramento-San Joaquin Valley”** 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. It does not include lands lying within the Tulare Lake basin, including the Kings River

# Senate Bill 5

## continued

- **Defines:**
- **“State Plan of Flood Control”** the state and federal flood control works, lands, programs, plans, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350 of the Water Code, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of the Water Code for which the board or the department has provided the assurances of nonfederal cooperation to the United States, which shall be updated by the department and compiled into a single document entitled “The State Plan of Flood Control.”
- **“Urban area”** means a developed area in which there are 10,000 residents or more
- **“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
- **“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

# Senate Bill 5

continued

- Requires the Department of Water Resources (DWR) and the Central Valley Flood Protection Board (Board) to prepare and adopt a Central Valley Flood Protection Plan (CVFPP) by 2012
- Establishes certain flood protection requirements for certain local land-use decisions consistent with the CVFPP
- Requires each city and county in the Sacramento-San Joaquin Valley (Central Valley), upon completion of the CVFPP, to incorporate the flood plan's data, policies and implementation measures into its general plans within 24 months
- Requires each city and county in the Central Valley to amend its zoning ordinance consistent with the CVFPP, within 36 months of the flood plan's adoption and 12 months of its amendment of the general plan
- Prohibits, after the CVFPP takes effect, a city or county in the Central Valley from entering into a development agreement, approving any permit, entitlement or subdivision map unless the city or county makes findings identified in the bill

# Senate Bill 5

continued

- **Requires DWR to propose updated flood protection requirements for floodplains with flood depths exceeding three feet in the California Building Standards Code by 2009, after consultation with the Board, the State Architect and the State Fire Marshal**
- **Authorizes local agencies to prepare local plans of flood protection that include a strategy to meet the urban level of flood protection, an emergency response plan, and a long-term funding strategy for improvement, maintenance and operation of flood protection facilities. Requires such local plans to be consistent with the CVFPP**

# Senate Bill 5

continued

- Defines the "Sacramento-San Joaquin River Flood Management System" (Flood Management System) to include both the state-federal flood control project defined in last year's flood bond as the "State Plan of Flood Control" and other Central Valley flood management facilities that provide significant system wide benefits for managing flood risks or protects urban areas
- Requires DWR to prepare, by July 1, 2008, preliminary maps for 100-year and 200-year floodplains protected by project levees, and provide such maps or notice of availability of other flood risk information to cities and counties in the Central Valley

# Senate Bill 5

continued

- **Requires DWR to prepare and release, by 2011, a status report on its CVFPP progress**
- **Allows DWR to implement improvements to the State Plan of Flood Control for urban areas before completion of the CVFPP if the DWR Director makes certain findings to show such improvements will not interfere with the prospective CVFPP**
- **Requires DWR to develop, and the Board to adopt (after certain public process), by January 1, 2012, a CVFPP for the Flood Management System, with updates in subsequent years ending in two and seven**

# Senate Bill 5

continued


## CENTRAL VALLEY FLOOD PROTECTION PLAN

- description of the Flood Management System, including the cities and counties included in that system
- description of the performance of the Flood Management System and the challenges to modifying the Flood Management System to provide appropriate levels of flood protection
- description of the facilities included in the State Plan of Flood Control
- description of existing dams, levees and other flood management facilities that provide significant system wide benefit for managing Central Valley flood risks or that protect urban areas protected by state-federal project levees
- description of probable impacts of projected climate change, land-use patterns and other potential flood management challenges to the Flood Management System

# Senate Bill 5

continued

## CENTRAL VALLEY FLOOD PROTECTION PLAN

- **evaluation of the structural improvements necessary to restore each of the facilities of the State Plan of Flood Control to its design standard**
  - **a list of the facilities recommended for removal from the State Plan of Flood Control**
  - **description of both structural and nonstructural methods for providing an urban level of flood protection to currently urbanized areas in the Central Valley**
  - **description of structural and nonstructural methods for enabling or improving system wide riverine ecosystem function, including riparian habitat and inundation of available floodplains**
- 
- A photograph of a tree standing in a flooded landscape, with its reflection visible in the water. The background shows a distant shoreline under a clear sky.

# Senate Bill 5

continued

- **Limits state liability for developing and adopting a CVFPP beyond the scope of the existing state-federal flood control project**
- **Requires DWR, in developing the CVFPP, to collaborate with the United States (U.S.) Army Corps of Engineers and owners/operators of flood management facilities**
- **Requires the CVFPP to include a prioritized list, schedule of implementation, and recommendations of both structural and nonstructural means for improving performance and eliminating deficiencies of flood management facilities - including the State Plan of Flood Control**
- **Allows DWR to propose that the Board incorporate additional structural and nonstructural facilities into the State Plan of Flood Control**

# Senate Bill 5

continued

- **Requires DWR/Board to take necessary actions to remove identified facilities from the State Plan of Flood Control and prepare a funding plan/schedule for CVFPP implementation**
- **Requires each county in the Central Valley to work with cities to develop an emergency response plan within 24 months of adoption of the CVFPP**
- **Requires counties, cities, state and local flood agencies to collaborate to provide relocation assistance or other cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas**
- **Requires cities and counties to collaborate to develop funding mechanisms to finance local flood protection responsibilities by 2010**

# Senate Bill 5

continued

- **Applies the bill's provisions, as applicable to cities, to charter cities as well**
- **Makes this bill contingent on adoption of AB 5 (Wolk) of 2007 and SB 17 (Florez) of 2007**



# Assembly Bill 5

**Reforms the Reclamation Board, adjusts statutory framework for State flood control projects in the Central Valley**

**AB 5 is... “a compilation of provisions in three flood bills - SB 5 (Machado), SB17 (Florez) and AB 156 (Laird) ...**

**This bill is intended to chapter out the entire SB 17 and AB 156”**

# Assembly Bill 5

continued

- **Change the name of the Reclamation Board to the Central Valley Flood Protection Board**
- **Clarify existing law to require the board to function independently from the Department of Water Resources (DWR) and prohibits DWR from overturning any board action**
- **Create a nine-member board, with seven appointments by Governor and the chair of the relevant committee in each house of the Legislature**
- **Establish conflict-of-interest and ex parte rules for board members**
- **Authorize board to participate in multi-objective flood projects, including land acquisition for flood projects outside the boundaries of the Sacramento-San Joaquin drainage district**

# Assembly Bill 5

continued

- **Set evidentiary standards for board actions, requiring the board to adopt regulations, pursuant to the Administrative Procedure Act, for evidentiary hearings, for decisions on permits**
- **Require DWR to prepare, by December 31, 2008, a schedule for mapping Central Valley floodplains at risk of flooding**
- **Authorize DWR and the Reclamation Board to establish a system for banking environmental mitigation credits for their flood control efforts**
- **Require DWR to prepare a status report on the Central Valley's State Plan of Flood Control**
- **Require DWR to provide notice of flood risk and flood insurance to property owners in "levee flood protection zones," which are areas protected by State levees**

# Assembly Bill 5

continued

- **Require DWR to prepare maps of levee flood protection zones, including delineation of areas with depths exceeding three feet**
- **Require local flood management agencies that operate or maintain State project levees to submit annual reports on their activities to DWR, which would compile and prepare an annual report on the State Plan of Flood Control for the board**
- **Require DWR to develop cost-sharing formulas for flood projects, with a minimum 50% state cost-share**
- **Condition state funding of a levee upgrade on agreement of the local levee agency and protected city or county to adopt a flood safety and emergency response plan within 2 years**
- **Allow DWR and the board to work with the Federal Government on environmental enhancements to flood control projects, commonly called "multi-objective management"**

# Assembly Bill 5

continued

- **Allow DWR or the board, if it finds that a flood facility is not being maintained properly, to create and make adjustments to state maintenance areas for a state flood project area, where the State assumes the responsibility for maintenance of flood control facilities (e.g., levees) that local agencies may have maintained previously**
- **Require DWR to estimate the costs of restoring the adequacy of a flood control facility to standard and allow DWR to require payment of such costs before creating a maintenance area to assume state responsibility for maintenance of such facility**
- **Add DWR and board standards, to existing federal standards, as benchmarks for evaluating local agency maintenance of State project levees**

# Assembly Bill 162 (Wolk)

- **Requires cities and counties to increase their attention to flood-related matters in the land use, conservation, safety, and housing elements of their general plans**

**Requires prospectively adding flood management to the issues that must be addressed in the mandatory land use and conservation elements of general plans, and expands the flood management requirements of the mandatory safety element**

# Assembly Bill 162 (Wolk)

continued

- **Defines:**

- **"200-year floodplain"** as an area that has a 1-in-200 chance of flooding in any given year, based on hydrological modeling
- **"levee protection zone"** as an area that is protected by a levee that is part of the facilities of the State Plan of Flood Control

- **Add 200-year floodplain maps and maps of levee protection zones to the list of information regarding flood hazards to be identified in a revised safety element of a general plan**

# Assembly Bill 162 (Wolk)

continued

- **Authorize a council of governments (COG) or, for cities and counties without a COG, the department of Housing and Community Development (HCD) to exclude from its determination of available land suitable for urban development lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources (DWR) has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding**

# Assembly Bill 162 (Wolk)

continued

- **Requires the mandatory land use element of a general plan to identify and annually review those areas covered by the general plan that are subject to flooding as identified by floodplain mapping prepared by FEMA or DWR**
- **Requires, upon the next revision of the mandatory housing element, on or after January 1, 2008, the mandatory conservation element of a general plan to identify rivers, creeks, streams, flood corridors, riparian habitat, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management**
- **Requires, upon the next revision of the housing element, on or after January 1, 2008, the mandatory safety element of a general plan to identify, among other things, information regarding flood hazards and establish a set of comprehensive goals, policies, and objectives, based on specified information for the protection of the community from, among other things, the unreasonable risks of flooding**

# Assembly Bill 162 (Wolk)

continued

- **Requires a local planning agency, upon each revision of the housing element, to review, and if necessary, to identify new information that was not available during the previous revision of the safety element**
- **Provides criteria by which cities and counties that have FEMA-approved floodplain management ordinances may comply with this measure's safety element provisions**
- **Requires each city and county located within the boundaries of the Sacramento and San Joaquin Drainage District to submit the draft element or draft amendment to its safety element to the Reclamation Board and every local agency that provides flood protection to territory in the city or county at least 90 days prior to the adoption of, or amendment to, the safety element, of its general plan**
- **Requires the Reclamation Board and any relevant local agency to review the draft or an existing safety element and report its written recommendations to the planning agency within 60 days of its receipt of the draft or existing safety element**

# Assembly Bill 162 (Wolk)

continued

- **Requires that, prior to action by a legislative body of a city or county to adopt or substantially amend a general plan, that the planning agency refer the proposed action to the Reclamation Board when the proposed action is within the boundaries of the Sacramento and San Joaquin Drainage District**
- **Permits a council of governments, when making a determination of available land suitable for urban development pursuant to housing element law, to exclude lands where the flood management infrastructure designed to protect the jurisdiction is not adequate to avoid the risk of flooding such that the development of housing would be impractical due to cost or other considerations**

# Senate Bill 70 (Steinberg)

- **Provides, generally, that a city or county may contribute a fair and reasonable share of the increased flood damage caused by its unreasonable approval of developments following the failure of a state flood control project, under specified conditions**
- **The Bill attempts to address the liability issues created by the Paterno Decision by answering the question: When a devastating flood hits the Central Valley, who should be responsible for the ensuing property damage: the state-level actors who failed to provide adequate levees, the local actors who increase the state's liability by locating new developments behind suspect levees, or both to the extent culpable?**
- **This bill answers that both should pay a fair and equitable portion.**

# Senate Bill SB 1XX (Perata)

- This bill amends integrated regional water management program statute and appropriates \$820,973,000 in funding from currently authorized general obligation bonds for various water-related purposes
- Pursuant to Section 75033 of the Public Resources Code, \$100 million in Delta levee funding for acquisition, preservation, protection and restoration of Delta resources. The department shall expend these funds pursuant to priorities that reflect the value of the resources and land uses protected by the levees to the state as a whole, consistent with the Delta Vision Strategic Plan. Projects shall be selected to improve the stability of the Delta levee system, reduce subsidence, and assist in restoring the ecosystem of the Delta. Priority shall be given to projects that improve conditions for Delta smelt and other native fish

# Senate Bill SB 1XX (Perata)

## Public Resources Code § 75033

- **75033.** The sum of two hundred seventy five million dollars (\$275,000,000) shall be available to the department for flood control projects in the Delta designed to increase the department's ability to respond to levee breaches and to reduce the potential for levee failures. The funds provided by this section shall be available for the following purposes: (a) Projects to improve emergency response preparedness. (b) Local assistance under the delta levee maintenance subventions program under Part 9 (commencing with Section 12980) of Division 6 of the Water Code. (c) Special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6 of the Water Code, including projects for the acquisition, preservation, protection and restoration of Delta lands for the purpose of flood control and to meet multiple objectives such as drinking water quality ecosystem restoration and water supply reliability. (d) All projects shall be subject to the provisions of Water Code Section 79050.