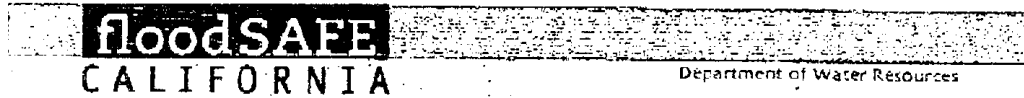


State of California  
The Resources Agency  
DEPARTMENT OF WATER RESOURCES

**FLOOD MANAGEMENT LEGISLATIVE PROPOSALS**

**General Summary**



**Rebuilding the System, Reducing the Risk**



**Confidential and Privileged**

**May 23, 2007**

## **Summary of Legislative Proposals**

The flood management legislative proposals being proposed by the Department are summarized as follows:

### **I. Public Safety and Property Protection Proposal**

This proposal has eight elements or sections and would require cities and counties to update the safety element of their general plan beginning in 2010 according to specific requirements for lands at high risk of flooding. These new requirements would not allow new development in high risk areas without first providing adequate flood protection. It would also require cities and counties in the Sacramento and San Joaquin Valleys to develop a strategy to provide 200-year flood protection by 2022 for existing development in deep floodplains protected by Project levees.

Furthermore, this proposal would also prohibit cities and counties in the Sacramento and San Joaquin Valleys from approving new subdivisions in undeveloped deep floodplains unless or until there is a reasonable plan for the site to achieve 200-year flood protection by the year 2022. This proposal would also preclude school districts from allowing new school construction in undeveloped, flood-prone areas. Finally, this proposal would close several loopholes which would otherwise allow developers to vest their right to develop in a floodplain and thus avoid the requirement to secure an appropriate level of flood protection for said development.

The eight sections in this proposal are as follows:

Section 1: Findings and Declarations

Section 2: Application of general plan floodplain policies to school districts

Section 3: Amends the basic requirements for general plan content

Section 4: Addition of floodplain analyses to be contained in the safety element of the city or county general plan, and requiring general plans to limit new development in flood hazard zones without adequate protection. It would also require cities and counties within the Sacramento and San Joaquin Valleys to identify an implementation program that would achieve 200-year protection by 2022 for areas protected by Project levees.

Section 5: Amends the zoning requirements to require that charter cities' zoning decisions be consistent with the general plan's floodplain provisions.

- Section 6: Amends the development agreement statute to limit its use to vest development rights on potentially flood-prone lands after January 1, 2008
- Section 7: Establishes the "Floodplain Development Protection Act" to require that, after January 1, 2010, residential subdivisions in deep floodplains within any "levee flood protection zone" in the Sacramento and San Joaquin Valleys could only be approved if they are located in an existing developed area, or the city/county has affirmed that there is a reasonable plan to achieve 200-year protection by 2022, or that the residential units are constructed 1 foot above the base flood elevation associated with a 200-year flood.
- Section 8: This amends the vesting tentative map statute to limit its use to vest subdivision map rights after January 1, 2008.

## **II. State Plan of Flood Control Proposal**

Proposition 1E requires the Department to update the State Plan of Flood Control, and the Department is already planning to complete this task. The proposed legislative language has been obtained from existing language in both AB 156 (Laird) and SB 17 (Flores) and details requirements for both a status report and an update to the State Plan of Flood Control by December 31, 2011. There is also legislative language for :

- Levee Protection Goals
- Levee Flood Protection Zone Maps
- Local Flood Agency Reports

## **III. Cost Sharing Formulas**

We have proposed general legislative language requiring the Department to develop cost sharing formulas through a public and administrative process.

## **IV. Flood Risk Notification**

The Department's current proposal is for the Department to annually notify property owners who have parcels that are protected by Project levees (i.e. parcels within levee flood protection zones). This language was previously developed in AB 1665 (Laird) in 2006 and reintroduced in AB 156 (Laird) and calls for annual notification by the Department to begin on or before September 1, 2010, and on or before September 1 of each year thereafter.

## **V. Liability**

The Department proposes addressing flood liability to the State (Paterno liability) by using three legislative approaches:

- The Department proposes to amend the Subdivision Map Act to include a requirement that land use agencies approving development in areas protected by Project levees formally acknowledge the existing and foreseeable residual flood risk (see Section 7, paragraph (f)).
- The Department proposes a reduced local cost share for flood control projects if the appropriate city and/or county either formally acknowledges the flood risk or indemnifies the State.
- The Department supports the shared liability concept proposed in AB 70 (Jones).

## **VI. Flood Insurance**

The Department is proposing that developers place in an escrow account, \$5,000 for each new residential unit in a levee flood protection zone, to be used to purchase flood insurance from the National Flood Insurance Program (This is an alternative to that currently proposed in AB 5).

## **VII. Assembly Bill 156 (Laird)**

The Department continues to support the legislative proposals and language contained in Assembly Bill 156 (Laird), formerly AB 1665 (Laird) from 2006. There are 10 legislative proposals contained in AB 156 related to the preparation of reports and maps, flood risk notification, maintenance area formation, mitigation banks, and safety plans.

## **VIII. Exemptions from the Public Works Board and Administrative Procedures Act**