

LEGISLATIVE COUNSEL'S DIGEST

Bill No. _____
as introduced, _____.
General Subject: State jurisdictional dams: inundation maps: emergency action plans.

Existing law requires the Department of Water Resources to supervise the maintenance and operation of dams and reservoirs as necessary to safeguard life and property. Existing law prohibits the construction of any new dam or reservoir or the enlargement of any dam or reservoir from being commenced until the owner has applied for and obtained from the department written approval of plans and specifications. Existing law, the California Emergency Services Act, requires the Director of Emergency Services to coordinate the emergency services of all state agencies in connection with a state or local emergency. Existing law makes an owner of a dam that is regulated by the state responsible for emergency preparedness with regard to the potential for loss of life and property resulting from the failure of a dam or its critical appurtenant structures, as defined. Existing law requires the owner of a dam that is regulated by the state, except for a dam classified as low hazard, to prepare and submit to the department for approval an inundation map showing the area that would be subject to flooding under various failure scenarios unique to the dam and the critical appurtenant structures of the dam. Existing law requires the owner of a dam, on or before a date determined by the level of hazard classification of the dam, to develop and submit to the department and the office an emergency action plan with certain components, based upon the inundation map or maps approved by the department. Existing law requires the office to review and approve an emergency action plan, as prescribed, and to give priority in its review to dams with the highest hazard classification. Existing law provides that every person who violates certain provisions relating to dam safety or of any approval, order, rule, regulation, or requirement of the department is guilty of a misdemeanor, punishable as prescribed.

This bill would require the owner of a dam required to submit an inundation map to the department to submit to the department and the office its emergency action plan electronically. The bill would require the owner of a dam with an emergency action plan existing as of March 1, 2017, that contains an inundation map for the dam and all critical appurtenant structures that department determines are sufficient, to submit the complete emergency action plan reflecting all critical appurtenant structures to the office for review within 30 days of department approval.



The bill would require the owner of a dam with an emergency action plan existing as of March 1, 2017, that does not include an inundation map for all critical appurtenant structures to submit the emergency action plan to the office after the department reviews a map included in the plan for sufficiency. The bill would require the owner of a dam described in this paragraph to continue to prepare an inundation map with due diligence, as defined, for any remaining critical appurtenant structures and to submit the map or maps to the department for review and approval. The bill would authorize the office to defer review and approval of the new or updated emergency action plan until the office has received an inundation map approved by the department for the dam and all critical appurtenant structures. The bill would authorize an owner of a dam to use an emergency action plan that existed as of March 1, 2017, on an interim basis, pending approval of a new or updated emergency action plan that includes a map for the dam and all critical appurtenant structures if the office approves an emergency action plan when the owner of the dam is continuing to prepare an inundation map with due diligence. The bill would require the owner of a dam preparing an inundation map with due diligence to submit a proposed time schedule to the department no later than 60 days after the effective date of the bill and would require the department to make the schedule publicly available. Because failing to submit a proposed time schedule or comply with a time schedule approved by the department would be a crime, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



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An act to amend Section 6161 of the Water Code, relating to dam safety.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6161 of the Water Code is amended to read:

6161. (a) (1) An owner of a state jurisdictional dam, except an owner of a dam classified by the department pursuant to Section 6160 as a low hazard dam, shall submit electronically to the department an inundation map that shows the area that would be subject to flooding under various failure scenarios unique to the dam and the critical appurtenant structures of the dam.

(2) Before approval of an inundation map, the department shall review the map and may require the owner to make changes that the department deems necessary.

(3) Upon approval of the inundation map or maps by the department, the owner of the dam shall develop and submit electronically to the department and the Office of Emergency Services ~~based upon the approved inundation map or maps~~ an emergency action plan that is based upon the approved inundation map or maps.

(4) If an owner of a dam has an existing emergency action plan as of March 1, 2017, the department shall review ~~an any~~ inundation map or maps contained in the plan. If the department determines the inundation map ~~is or maps are~~ sufficient, ~~the department shall request as described in subparagraphs (A) or (B), the owner of the dam shall submit the emergency action plan associated with the inundation map or maps to the Office of Emergency Services to review the emergency action plan associated with that inundation map.~~ plan as follows:

(A) If an emergency action plan existing as of March 1, 2017, contains an inundation map for the dam and all critical appurtenant structures, if critical appurtenant structures exist, and the department determines that the inundation map or maps for the dam and all existing critical appurtenant structures are sufficient, the owner of the dam shall submit the complete emergency action plan reflecting all critical appurtenant structures to the Office of Emergency Services for review within 30 days of department approval.

(B) (i) If an emergency action plan existing as of March 1, 2017, contains an inundation map for the dam but not for all critical appurtenant structures, if critical appurtenant structures exist, the department shall review a map included in the existing emergency action plan for sufficiency. If the department approves the map, the owner of the dam shall submit the existing emergency action plan associated with the approved map to the Office of Emergency Services. The owner of the dam shall continue to prepare inundation maps with due diligence for any remaining critical appurtenant structures and submit the map or maps to the department for review and approval. The Office of Emergency Services may defer review and approval of the new or updated emergency action plan until the Office of Emergency Services has received inundation maps approved by the department for the dam and all critical appurtenant structures. If the Office of Emergency Services approves an emergency action plan when the owner of the dam is continuing to prepare inundation maps with due diligence pursuant to this subparagraph, an owner of a dam may use that emergency action plan that existed as of March 1, 2017, on an interim basis, pending approval of a new or updated emergency action plan that includes maps for the dam and all critical appurtenant structures.

(ii) For the purposes of this subparagraph, "due diligence" means that the owner of a dam is progressing toward completion of the inundation map or maps for all critical



appurtenant structures according to a reasonable schedule proposed by the owner of the dam and approved by the department. When evaluating the time schedule proposed by the owner of the dam, the department may consider, among other relevant factors, the hazard classification of the dam, the number of critical appurtenant structure inundation maps that are outstanding, and the complexity of the failure scenarios. The owner of a dam shall submit a proposed time schedule to the department no later than 60 days after the effective date of the act that added this subparagraph. Failure to submit a proposed time schedule to the department or to comply with a time schedule approved by the department may result in the imposition of penalties, restrictions, or liens pursuant to Chapter 8 (commencing with Section 6425). After the department approves maps for the critical appurtenant structures, the dam owner shall submit a new or updated emergency action plan including the approved maps to the Office of Emergency Services within 60 days.

(b) (1) The Office of Emergency Services shall review and approve an emergency action plan no later than 60 days after receipt of the plan from the dam owner pursuant to Section 8589.5 of the Government Code. To the extent possible, the Office of Emergency Services shall give priority to a dam with the highest hazard classification as determined by the department pursuant to Section 6160.

(2) If the Office of Emergency Services determines a proposed emergency action plan does not meet the requirements of Section 8589.5 of the Government Code, the Office of Emergency Services shall inform the owner of the dam and require the owner of the dam to amend and resubmit the emergency action plan for approval. The Office of Emergency Services shall review and, if the emergency action plan meets the requirements of Section 8589.5 of the Government Code, approve a resubmitted emergency action plan within 30 days of receipt from the owner of the dam.

(3) Upon approval by the Office of Emergency Services of an emergency action plan, the Office of Emergency Services shall notify the department and the owner of the dam of the approval. The owner of the dam shall ensure that the approved emergency action plan is disseminated to appropriate public safety and emergency management agencies in potentially affected jurisdictions, to the extent these agencies wish want to receive approved emergency action plans.

(c) (1) The department shall make available to the public an approved inundation map publicly available: map and any schedule submitted pursuant to clause (ii) of subparagraph (B) of paragraph (4) of subdivision (a).

(2) Nothing in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code shall be construed to require disclosure of an emergency action plan.

(d) (1) Pursuant to the classification by the department under Section 6160, an owner of a dam shall complete and submit an emergency action plan as follows:

(A) On or before January 1, 2018, if the hazard classification of the dam is extremely high.

(B) On or before January 1, 2019, if the hazard classification of the dam is high.

(C) On or before January 1, 2021, if the hazard classification of the dam is significant.

(2) An owner of a dam who has an existing emergency action plan as of March 1, 2017, that the department determines has a sufficient inundation map and that the Office of Emergency Services determines has a sufficient emergency action plan



pursuant to paragraph (4) of subdivision (a) is not subject to the timelines set forth in paragraph (1).

(e) An owner of a dam shall update an emergency action plan, including an inundation map, no less frequently than every 10 years, and sooner under conditions that include, but are not limited to, the following:

(1) A significant modification to the dam or a critical appurtenant structure, as determined by the department.

(2) A significant change to downstream development that involves people and property.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

