

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 25, 2007
POSITION: No position

BILL NUMBER: SB 5
AUTHOR: M. Machado

BILL SUMMARY: Flood Management

This bill would require the Department of Water Resources (DWR) to propose by January 1 of each year ending in 0 or 5, and the Reclamation Board to adopt by March 31 of the same year, a Sacramento-San Joaquin River Flood Management System Plan (Flood Plan).

The bill would require specified local governments within the Central Valley to amend their general plans and zoning ordinances based on information contained in the Flood Plan. The bill also would require local governments to notify property owners of parcels protected by flood control infrastructure or in a flood hazard area. The bill would also restrict local governments from approving subdivisions or approving building permits in areas protected by the State Plan of Flood Control unless making a special finding that reasonable flood protection exists or imposing special conditions to mitigate flood hazards.

The bill would require the Department of Housing and Community Development, in consultation with DWR and the Reclamation Board, to suggest amendments to the California Building Standards Code to protect construction from unreasonable risk from flooding.

FISCAL SUMMARY

DWR plans to develop a Flood Plan using \$6 million continuously appropriated Proposition 84 funds.

This bill would impose costs on cities or counties of an indeterminate amount to comply with requirements to update general plans, zoning ordinances, and to notify property owners with property protected by flood control infrastructure or in a flood hazard area.

The Department of Housing and Community Development would require 2.5 positions to develop suggested amendments to the California Building Standards Code to protect construction from unreasonable risk from flooding. No cost estimate for these positions was provided, but they would be likely funded from the General Fund.

The bill may result in an indeterminable future General Fund savings because it could reduce state liability by increasing enrollment in flood insurance by owners of property in flood hazard areas and by restricting development in flood hazard areas.

COMMENTS

Finance has no position on this bill at this time. We recognize that it addresses key flood management issues, but are concerned that the bill would create costs for which no funding is provided. In addition, the bill would likely result in a reimbursable state mandate. We note, however, that these costs may be offset by reductions in future state liability.

(Continued)

Analyst/Principal Date Program Budget Manager Date
(0631) M. Almy Karen Finn

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

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M. Machado

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COMMENTS (continued)

In November 2003, a California appellate court issued a decision in *Paterno v. State of California (Paterno)* that significantly altered liability implications for the State in the maintenance and operation of Central Valley levees. Essentially, the court found in *Paterno* that the state's plan of flood control was unreasonable and thus the state was liable for damages caused by failures of deficient levees, even when maintenance responsibilities were local government's responsibility.

This bill would integrate state flood control system planning and evaluation with local government land use and planning decisions. The requirements of this bill could contribute towards reduction of *Paterno*-like liability by requiring:

- The state to establish a Flood Plan.
- Local governments to consider flood risks when making land use and permitting decisions.
- Local governments to notify property owners in flood hazard areas of the flood risks they face and by providing information on how to obtain flood hazard insurance.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code
	LA	(Dollars in Thousands)								
	CO	PROP	2006-2007		2007-2008		2008-2009			
	RV	98	FC	FC	FC	FC	FC	FC		
3860/Water Res	SO	No		-- B		\$3,000	B	\$3,000	6051	
3884/Mandates-Res	SO	No		-----	See Fiscal Summary	-----			0001	
2240/HCD	SO	No		-----	See Fiscal Summary	-----			0001	
3860/Water Res	SO	No		-----	See Fiscal Summary	-----			0001	
<u>Fund Code</u>	<u>Title</u>									
0001	General Fund									
6051	SafeDrinkWtr,WtrQual/Sup,FldCtrl,RvrCstl									