2007 California Flood Legislation

COMPANION REFERENCE

ISSUED BY THE
CALIFORNIA DEPARTMENT
OF WATER RESOURCES

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Governor

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INTRODUCTION

Background

In the latter part of 2007, the California Legislature passed and the Governor signed five interrelated bills aimed at addressing the problems of flood protection and liability and helping direct use of Proposition 1E and Proposition 84 bond funds. These included Senate Bills (SB) 5 and 17, and Assembly Bills (AB) 5, 70, and 156. A sixth bill passed in 2007, AB 162, required additional consideration of flood risk in local land use planning throughout California. These bills, effective January 1, 2008, collectively added or amended sections in the California Government Code, Health and Safety Code, Public Resources Code, and Water Code. Together, these bills outline a comprehensive approach to improving flood management at the State and local levels, with elements to address both the chance of flooding (e.g., improvements to reduce the probability that floods will occur) and the consequences when flooding does occur.

To help the public understand the impact of these six pieces of legislation (flood legislation), the California Department of Water Resources prepared the *2007 Flood Legislation Summary*. The document describes the intent of the flood legislation and summarizes the new actions required of State and local agencies.

Purpose

This document is intended to be a companion to the *2007 Flood Legislation Summary*. This document provides a listing of the code sections referenced in the flood legislation, including amendments and deletions. In order to illustrate the content of the flood legislation in a straightforward manner, this document has grouped the bill text by the code that it modifies. Therefore, the document is broken up into four groupings; Pertinent Government Code Sections, Pertinent Health and Safety Code Sections, Pertinent Public Resources Code Sections, and Pertinent Water Code Sections. For a complete listing of each code, refer to: **http://www.leginfo.ca.gov/calaw.html**.

In each grouping, the modified code is presented in numerical order by section number. The code is introduced by a title block that includes its section number, a description of whether the code section was added or amended, and the bill number(s) that directed the modification. Where sections were added to the codes, text is represented in blue, underlined type. Where existing sections of code were amended, the text will indicate changes with red strikeouts (redacted) and blue underlines (added).

GOVERNMENT CODE SECTIONS

Government Code Section 11564. As Amended by SB 17 and AB 5

11564. (a) Effective January 1, 1988, an annual salary of twenty-five thousand one hundred eighteen dollars ($25,118) shall be paid to each member of the State Air Resources Board~~, provided~~ and the Central Valley Flood Protection Board, if each member devotes a minimum of 60 hours per month to state board work. The salary shall be reduced proportionately if less than 60 hours per month is devoted to state board work.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

Government Code Section 13332.11.1. Added by AB 156

13332.11.1. Notwithstanding Section 13332.11, the expenditure by the Department of Water Resources of funds appropriated pursuant to Section 5096.821 or 75032 of the Public Resources Code is not subject to the approval of the State Public Works Board if either of the following applies to the expenditure:

(a) The department is performing work pursuant to an emergency.

(b) The department does all of the following:

(1) Obtains engineering review of the proposed project from the United States Army Corps of Engineers.

(2) Obtains engineering review of the proposed project from an independent board of consultants for any project with a construction cost exceeding five million dollars ($5,000,000).

(3) Provides a written report to the Reclamation Board.

(4) Provides information on the project expenditure to the Legislature in a semiannual report due on April 1 and October 1 each year.

(5) Provides written notification to the Legislature if funds are made available by Section 75032 of the Public Resources Code to pay a project cost increase for which the Legislature has not otherwise been notified in writing.

Government Code Section 65007. Added by SB 5

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.

Government Code Section 65300.2. Added by AB 162

65300.2. (a) For the purposes of this article, a "200-year flood plain" is an area that has a 1 in 200 chance of flooding in any given year, based on hydrological modeling and other engineering criteria accepted by the Department of Water Resources.

(b) For the purposes of this article, a "levee protection zone" is an area that is protected, as determined by the Central Valley Flood Protection Board or the Department of Water Resources, by a levee that is part of the facilities of the State Plan of Flood Control, as defined under Section 5096.805 of the Public Resources Code.

Government Code Section 65302. Amended by AB 162

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan ~~which~~ that are subject to flooding ~~and shall be reviewed annually with respect to those areas~~ identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use
element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose ~~for~~ in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that

information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

~~(1)~~ (A) The reclamation of land and waters.

~~(2)~~ (B) Prevention and control of the pollution of streams and other waters.

~~(3)~~ (C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

~~(4)~~ (D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

~~(5)~~ (E) Protection of watersheds.

~~(6)~~ (F) The location, quantity and quality of the rock, sand and gravel resources.

~~(7) Flood control.~~

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Care Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

~~(1)~~ (A) Highways and freeways.

~~(2)~~ (B) Primary arterials and major local streets.

~~(3)~~ (C) Passenger and freight on-line railroad operations and ground rapid transit systems.

~~(4)~~ (D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

~~(5)~~ (E) Local industrial plants, including, but not limited to, railroad classification yards.

~~(6)~~ (F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction, and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

~~(1)~~ (2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of a flood hazard zone 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.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) After the initial revision of the safety element pursuant to paragraph

(2), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(4) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(5) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department ~~and~~, the office, and the board required by this subdivision.

~~(2)~~ (6) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

Government Code Section 65302.7. Added by AB 162

65302.7. (a) For the purposes of complying with Section 65302.5, each county or city located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, shall submit the draft element of, or draft amendment to, the safety element to the Central Valley Flood Protection Board and to 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.

(b) The Central Valley Flood Protection Board and each local agency described in paragraph (1) shall review the draft or an existing safety element and report their respective written recommendations to the planning agency within 60 days of the receipt of the draft or existing safety element. The Central Valley Flood Protection Board and each local agency shall review the draft or existing safety element and may offer written recommendations for changes to the draft or existing safety element regarding both of the following:

(1) Uses of land and policies in areas subjected to flooding that will protect life, property, and natural resources from unreasonable risks associated with flooding.

(2) Methods and strategies for flood risk reduction and protection within areas subjected to flooding.

(c) Prior to the adoption of its draft element or draft amendments to the safety element, the board of supervisors of the county or the city council of a city shall consider the recommendations made by the Central Valley Flood Protection Board and any local agency that provides flood protection to territory in the city or county. If the board of supervisors or the city council determines not to accept all or some of the recommendations, if any, made by the Central Valley Flood Protection Board or the local agency, the board of supervisors or the city council shall make findings that state its reasons for not accepting a recommendation and shall communicate those findings in writing to the Central Valley Flood Protection Board or to the local agency.

(d) If the Central Valley Flood Protection Board's or the local agency's recommendations are not available within the time limits required by this section, the board of supervisors or the city council may act without those recommendations. The board of supervisors or city council shall consider the recommendations at the next time it considers amendments to its safety element.

Government Code Section 65302.9. Added by SB 5

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.

Government Code Section 65303.4. Amended by AB 162

65303.4. The Department of Water Resources or the Central Valley Flood Protection Board, as appropriate, and the Department of Fish and Game may develop site design and planning policies to assist local agencies which request help in implementing the general plan guidelines for meeting flood control objectives and other land management needs.

Government Code Section 65352. Amended by AB 162

65352. (a) Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

(1) A city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

(2) An elementary, high school, or unified school district within the area covered by the proposed action.

(3) The local agency formation commission.

(4) An areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(5) A federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

(6) (A) The branches of the United States Armed Forces that have provided the Office of Planning and Research with a California mailing address pursuant to subdivision (d) of Section 65944 when the proposed action is within 1,000 feet of a military installation, or lies within special use airspace, or beneath a low-level flight path, as defined in Section 21098 of the Public Resources Code, provided that the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations at a scale and in an electronic format that is acceptable to the Office of Planning and Research.

(B) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet. Cities, counties, and cities and counties shall comply with subparagraph (A) within 30 days of receiving this notice from the office.

(7) A public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.

(8) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.

(9) On and after March 1, 2005, a California Native American tribe, that is on the contact list maintained by the Native American Heritage Commission, with traditional lands located within the city or county's jurisdiction.

(10) The Central Valley Flood Protection Board for a proposed action within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code.

(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

Government Code Section 65584.04. Amended by AB 162

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to

request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing ~~costs~~ cost burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting. (f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

Government Code Section 65584.06. Amended by AB 162

65584.06. (a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county or counties, possess the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing need, the department shall delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing need shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, agreements between a county and cities in a county to direct growth toward incorporated areas of the county, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. Consideration of suitable housing sites or land suitable for urban development is not limited to existing zoning ordinances and land use restrictions of a locality, but shall include consideration of the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(c) Within 90 days following the department's determination of a draft distribution of the regional housing need to the cities and the county, a city or county may propose to revise the determination of its share of the regional housing need in accordance with criteria set forth in the draft distribution. The proposed revised share shall be based upon comparable data available for all affected jurisdictions, and accepted planning methodology, and shall be supported by adequate documentation.

(d) (1) Within 60 days after the end of the 90-day time period for the revision by the cities or county, the department shall accept the proposed revision, modify its earlier determination, or indicate why the proposed revision is inconsistent with the regional housing need.

(2) If the department does not accept the proposed revision, then, within 30 days, the city or county may request a public hearing to review the determination.

(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than 15 days from the date of the notification.

(5) Before making its final determination, the department shall consider all comments received and shall include a written response to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the department grants a revised allocation pursuant to subdivision (d), the department shall ensure that the total regional housing need is maintained. The department's final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the local review period.

Government Code Section 65860.1. Added by SB 5

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.

Government Code Section 65865.5. Added by SB 5

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.

Government Code Section 65962. Added by SB 5

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.

Government Code Section 66474.5. Added by SB 5

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.

HEALTH AND SAFETY CODE SECTIONS

Health and Safety Code Section 50465. Added by SB 5

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.

PUBLIC RESOURCES CODE SECTIONS

Public Resources Code Section 5096.830. Added by AB 156

5096.830. The development or adoption of program guidelines and selection criteria for the purposes of this chapter is not subject to the review or approval of the Office of Administrative Law or to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

WATER CODE SECTIONS

Water Code Section 8200. Added by SB 5

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

Water Code Section 8201. Added by SB 5

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.

Water Code Section 8306. Added by AB 156

8306. (a) Notwithstanding any other provision of law, the department may provide meals and other necessary support to any person, including, but not limited to, an employee of the department, who is engaged in emergency flood fight activities on behalf of, or in cooperation with, the department.

(b) For the purposes of this section, "emergency flood fight activities" mean actions taken under emergency conditions to maintain flood control features, the failure of which threaten to destroy life, property, or resources.

Water Code Section 8307. Added by AB 70

8307. (a) A city or county may be required to contribute its fair and reasonable share of the property damage caused by a flood to the extent that the city or county has increased the state's exposure to liability for property damage by unreasonably approving new development in a previously undeveloped area that is protected by a state flood control project. However, a city or county shall not be required to contribute if, after the amendments required by Sections 65302.9 and 65860.1 of the Government Code have become effective, the city or county complies with Sections 65865.5, 65962, and 66474.5 of the Government Code as applicable with respect to that development. This section shall not be construed to extend or toll the statute of limitations for challenging the approval of any new development.

(b) A city or county is not required to contribute unless an action has been filed against the state asserting liability for property damage caused by a flood and the provisions of subdivision (a) providing for contribution have been satisfied. A city or county is not required to contribute if the state settles the claims against it without providing the city or county with an opportunity to participate in settlement negotiations.

(c) For the purposes of this section:

(1) "State flood control project" means any flood control works within the Sacramento River Flood Control Project described in Section 8350, 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.

(2) "Undeveloped area" means an area devoted to "agricultural use," as defined in Section 51201 of the Government Code, or "open space land," as defined in Section 65560 of the Government Code, that, as of January 1, 2008, is not already designated for development in a general or specific plan or by a local zoning ordinance.

(3) "Unreasonably approving" means approving a new development project without appropriately considering significant risks of flooding made known to the approving agency as of the time of approval and without taking reasonable and feasible action to mitigate the potential property damage to the new development resulting from a flood.

(4) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

(d) This section shall not apply to any land or projects for which an application for development has been submitted to the city or county prior to January 1, 2008.

Water Code Section 8521. As Amended by SB 17 and AB 5

8521. "Board" means the Central Valley Flood Protection Board. Any reference to the Reclamation Board in this or any other code means the Central Valley Flood Protection Board.

Water Code Section 8522.3. Added by AB 5

8522.3. "Facilities of the State Plan of Flood Control" means the levees, weirs, channels, and other features of the State Plan of Flood Control.

Water Code Section 8522.5. Added by AB 5

8522.5. "Project levee" means any levee that is a part of the facilities of the State Plan of Flood Control.

Water Code Section 8523. Added by AB 5

8523. "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, 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 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

Water Code Section 8550. As Amended by SB 17 and AB 5

8550. (a) ~~The Reclamation Board~~ board is continued in existence ~~within the department, but the Board~~ and shall continue to exercise and have all of its powers, duties, purposes, responsibilities, and jurisdiction.

(b) Notwithstanding any other provision of law, the board shall act independently of the department. The department shall not overturn any action or decision by the board.

(c) It is the intent of the Legislature to transfer the duties and corresponding funding allocated to the Reclamation Board as it exists on December 31, 2007, together with all necessary positions, to the board as it is reconstituted on and after January 1, 2008.

Water Code Section 8551. As Amended by SB 17 and AB 5

8551. ~~The~~ (a) Except as provided in subdivision (g), the board consists of ~~seven~~ nine members who ~~are~~ shall be appointed in accordance with this section.

(b) (1) Seven members of the board shall be appointed by and ~~serve at the pleasure of~~ the Governor, subject to Senate confirmation.

(2) Of the members appointed pursuant to paragraph (1), the following requirements apply:

(A) One person shall be an engineer.

(B) One person shall have training, experience, and expertise in geology or hydrology.

(C) One person shall be a flood control expert with not less than five years' experience.

(D) One person shall be an attorney with water experience.

(E) Three persons shall be public members.

(c) One member of the board shall be the Chair of the Senate Committee on Natural Resources and Water, to the extent that service with the board does not conflict with his or her legislative duties.

(d) One member of the board shall be the Chair of the Assembly Committee on Water, Parks and Wildlife, to the extent that service with the board does not conflict with his or her legislative duties.

(e) The members appointed pursuant to subdivisions (c) and (d) shall be nonvoting ex officio members.

(f) (1) Except as provided in paragraph (2), the board members appointed pursuant to subdivision (b) shall serve four-year terms.

(2) The board members initially appointed pursuant to this section shall determine, by lot, that five members shall serve four-year terms and four members shall serve two-year terms.

(g) Each board member holding office on December 31, 2007, shall continue to serve until his or her successor is appointed and has been qualified to hold office. The order of replacement shall be determined by lot.

Water Code Section 8552. As Amended by SB 17 and AB 5

8552. Each member of the board appointed pursuant to subdivision (b) of Section 8551 shall receive compensation as follows:

(a) Each member shall receive the necessary expenses incurred by the member in the performance of official duties~~, and each member of the board that is neither eligible for nor receives any salary or other compensation for time spent attending meetings of the board shall receive one hundred dollars ($100) for each day attending the meetings of the board, except that no member shall be compensated for more than 40 days in any one fiscal year. In addition to the amounts above provided, any member of the board.~~

(b) Any member traveling outside the state pursuant to authorization of the board, and the approval of the Governor and Director of Finance as provided by Section 11032 of the Government Code, while so engaged shall receive ~~that~~ per diem and his or her necessary expenses.

(c) Each member shall receive the salary provided for in Section 11564 of the Government Code.

Water Code Section 8554. As Amended by SB 17 and AB 5

8554. The ~~board~~ Governor shall ~~elect~~ select one of ~~its~~ the members of the board as president.

Water Code Section 8575. As Amended by SB 17 and AB 5

8575. A member of the board ~~having an interest in lands within the drainage district is not disqualified from voting to execute~~ shall comply with the conflict of interest requirements of Section 87100 of the Government Code when voting to carry out any part of ~~the plans~~ a plan of flood control ~~or from~~ and when carrying out the objects of this part.

Water Code Section 8577. As Added by SB 17 and AB 5

8577. (a) A board member shall not participate in any board action or attempt to influence any decision or recommendation by any employee of, or consultant to, the board that involves himself or herself or that involves any entity with which the member is connected as a director, officer, consultant, or full- or part-time employee, or in which the member has a direct personal financial interest within the meaning of Section 87100 of the Government Code.

(b) A board member shall not participate in any proceeding before any agency as a consultant or in any other capacity on behalf of any person that actively participates in matters before the board.

(c) For a period of 12 months after leaving office, a former board member shall not act as agent or attorney

for, or otherwise represent, any other person before the board by making any formal or informal appearance or by making any oral or written communication to the board.

(d) A board member shall not advocate to the United States Army Corps of Engineers or other federal agency on behalf of any project that has been or is reasonably anticipated to be submitted to the board for review, unless the board authorizes that action in accordance with Section 8560.

Water Code Section 8578. As Added by SB 17 and AB 5

8578. (a) For the purposes of this section, "ex parte communication" means any oral or written communication concerning matters, other than purely procedural matters, under the board's jurisdiction that are subject to a vote.

(b) (1) No board member nor any person or organization with an interest in board decisions, nor any person representing a person or organization with an interest in board decisions, excluding a staff member of the board acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board, shall conduct an ex parte communication.

(2) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.

(3) Communications cease to be ex parte communications when the board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.

(c) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the board to which this section applies.

Water Code Section 8580 - 8582. Repealed by AB 5

~~8580. The board shall appoint a secretary, who may be a member of the board.~~

~~8581. The board may appoint a general manager, a chief engineer and an assistant secretary, and may employ such assistant engineers, consulting engineers, and other assistants, employees, and advisers as it deems necessary.~~

~~8582. The compensation of any engineer employed by the board may be fixed at a monthly rate of compensation, or fees for special services rendered, or both.~~

Water Code Section 8580. As Added by SB 17 and AB 5

8580. (a) The board may appoint an executive officer.

(b) The board may appoint a chief engineer.

(c) The board may employ legal counsel and other necessary staff.

Water Code Section 8590. Amended by AB 5 (SB 17)

8590. ~~The~~ To carry out the primary state interest described in Section 8532, the board may do any of the following:

(a) Acquire either within or ~~without~~ outside the boundaries of the drainage district, by purchase, condemnation or by other lawful means in the name of the drainage district, all lands, rights-of-way, easements, property or material necessary or requisite for the purpose of bypasses, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes.

(b) Construct, clear, and maintain bypasses, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works.

(c) Construct, maintain, and operate ditches, canals, pumping plants, and other drainage works.

(d) Make contracts in the name of the drainage district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this division, or arising out of the use, taking, or damage of any property for any of the purposes of this division.

(e) Collaborate with state and federal agencies, if appropriate, regarding multiobjective flood management strategies that incorporate agricultural conservation, ecosystem protection and restoration, or recreational components.

Water Code Section 8610.5. As Added by SB 17 and AB 5

8610.5. (a) (1) The board shall adopt regulations relating to evidentiary hearings pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The board shall hold an evidentiary hearing for any matter that requires the issuance of a permit.

(3) The board is not required to hold an evidentiary hearing before making a decision relating to general flood protection policy or planning.

(b) The board may take an action pursuant to Section 8560 only after allowing for public comment.

(c) The board shall, in any evidentiary hearing, consider all of the following, as applicable, for the purpose of taking any action pursuant to Section 8560:

(1) Evidence that the board admits into its record from any party, state or local public agency, or nongovernmental organization with expertise in flood or flood plain management.

(2) The best available science that relates to the scientific issues presented by the executive officer, legal counsel, the department, or other parties that raise credible scientific issues.

(3) Effects of the proposed decision on the entire State Plan of Flood Control.

(4) Effects of reasonably projected future events, including but not limited to, changes in hydrology, climate, and development within the applicable watershed.

Water Code Section 8612. Added by AB 156

8612. (a) On or before December 31, 2008, the department shall prepare, and the board shall adopt, a schedule for mapping areas at risk of flooding in the Sacramento River and San Joaquin River drainage.

(b) The department shall update the schedule annually and shall present the updated schedule to the board for adoption on or before December 31 of each year. The update shall include the status of mapping in progress and an estimated time of completion. The schedule shall be based on the present and expected future risk of flooding and associated consequences.

Water Code Section 8613. Added by AB 156

8613. (a) The board or the department may establish a program of mitigation banking for the activities of the board or the department under this part and for the benefit of local districts in the discharge of their flood control responsibilities under this part and the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6).

(b) For the purposes of carrying out subdivision (a), the board or the department, in consultation with all appropriate state, local, and federal agencies with jurisdiction over environmental protection that are authorized to regulate and impose requirements upon the flood control work performed under this part or the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6), may establish a system of mitigation banking by which mitigation credits may be acquired in advance for flood control work to be performed by the board, the department, or a local agency authorized to operate and maintain facilities of the State Plan of Flood Control.

Water Code Section 9110. Added by AB 156

9110. Unless the context requires otherwise, the definitions set forth in this article govern the construction of this chapter.

(a) "Fiscal year" has the same meaning as that set forth in Section 13290 of the Government Code.

(b) "Levee flood protection zone" means the area, as determined by the board or the department, that is protected by a project levee.

(c) "Local agency" means a local agency responsible for the maintenance of a project levee.

(d) "Maintenance" has the same meaning as that set forth in subdivision

(f) of Section 12878.

(e) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(f) "State Plan of Flood Control" has the same meaning as that set forth in Section 5096.805 of the Public Resources Code.

Water Code Section 9120. Added by AB 156

9120. (a) The department shall prepare and the board shall adopt a flood control system status report for the State Plan of Flood Control. This status report shall be updated periodically, as determined by the board. For the purposes of preparing the report, the department shall inspect the project levees and review available information to ascertain whether there are evident deficiencies.

(b) The status report shall include identification and description of each facility, an estimate of the risk of levee failure, a discussion of the inspection and review undertaken pursuant to subdivision (a), and appropriate recommendations regarding the levees and future work activities.

(c) On or before December 31, 2008, the board shall advise the Legislature, in writing, as to the board's schedule of implementation of this section.

Water Code Section 9121. Added by AB 156

9121. (a) On or before September 1, 2010, and on or before September 1 of each year thereafter, the department shall provide written notice to each landowner whose property is determined to be entirely or partially within a levee flood protection zone.

(b) The notice shall include statements regarding all of the following:

(1) The property is located behind a levee.

(2) Levees reduce, but do not eliminate, the risk of flooding and are subject to catastrophic failure.

(3) If available, the level of flood risk as described in the flood control system status report described in Section 9120 and a levee flood protection zone map prepared in accordance with Section 9130.

(4) The state recommends that property owners in a levee flood protection zone obtain flood insurance, such as insurance provided by the Federal Emergency Management Agency through the National Flood Insurance Program.

(5) Information about purchasing federal flood insurance.

(6) The Internet address of the Web site that contains the information required by the flood management report described in Section 9141.

(7) Any other information determined by the department to be relevant.

(c) A county, with assistance from the department, shall annually provide to the department, by electronic means, lists of names and addresses of property owners in a levee flood protection zone located in that county.

(d) Notwithstanding any other provision of the law, the department may enter into contracts with private companies to provide the notices required by this section.

Water Code Section 9122. Added by AB 156

9122. The board shall determine the areas benefited by facilities of the State Plan of Flood Control based on information developed by the department.

Water Code Section 9130. Added by AB 156

9130. (a) The department shall prepare and maintain maps for levee flood protection zones. The department shall prepare the maps by December 31, 2008, and shall include in the maps a designation of those lands where flood levels would be more than three feet deep if a project levee were to fail, using the best available information. The maps shall include other flood depth contours if that information is available.

(b) The department shall distribute the levee flood protection zone maps to appropriate governmental agencies, as determined by the department.

(c) The department shall make the maps readily available to the public. The department may charge a fee for the cost of reproducing the maps. To the extent feasible, maps shall be made available on the Internet Web site of the department.

(d) The department may periodically revise the maps to include updated information when that information becomes available.

Water Code Section 9140. Added by AB 156

9140. (a) On or before September 30 of each year, a local agency responsible for the operation and maintenance of a project levee shall prepare and submit to the department, in a format specified by the department, a report of information for inclusion in periodic flood management reports prepared by the department relating to the project levee. The information submitted to the department shall include all of the following:

(1) Information known to the local agency that is relevant to the condition or performance of the project levee.

(2) Information identifying known conditions that might impair or compromise the level of flood protection provided by the project levee.

(3) A summary of the maintenance performed by the local agency during the previous fiscal year.

(4) A statement of work and estimated cost for operation and maintenance of the project levee for the current fiscal year, as approved by the local agency.

(5) Any other readily available information contained in the records of the local agency relevant to the condition or performance of the project levee, as determined by the board or the department.

(b) A local agency described in subdivision (a) that operates and maintains a nonproject levee that also benefits land within the boundaries of the area benefited by the project levee shall include information pursuant to subdivision (a) with regard to the nonproject levee.

(c) A local agency that incurs costs for the maintenance or improvement of a project or nonproject levee under the delta levee maintenance subventions program established pursuant to Part 9 (commencing with Section 12980) of Division 6 may submit information submitted to satisfy the requirements of that program to meet the requirements of paragraph (3) of subdivision (a), but may do so only for that reach of the levee included in that program.

(d) (1) A local agency responsible for the operation and maintenance of a levee not otherwise subject to this section may voluntarily prepare and submit to the department or the board a flood management report for posting on the Internet Web site of the department or the board.

(2) A flood management report submitted pursuant to paragraph (1) shall be made available on the Internet Web site of the board if the local agency is partially or wholly within the geographical boundaries of the board's jurisdiction. Otherwise, the report shall be made available on the Internet Web site of the department.

Water Code Section 9141. Added by AB 156

9141. (a) The department shall prepare and transmit to the board a report on the project levees operated and maintained by each local agency, using information provided by the local agency pursuant to Section 9140 and information from relevant portions of any of the following documents, as determined by the department:

(1) Annual inspection reports on local agency maintenance prepared by the department or the board.

(2) The State Plan of Flood Control.

(3) The flood control system status report described in Section 9120.

(4) The schedule for mapping described in Section 8612.

(5) Any correspondence, document, or information deemed relevant by the department.

(b) The department shall make the flood management report for each local agency available on the Internet Web site of the board and shall provide the report to all of the following entities:

(1) The local agency.

(2) Any city or county within the local agency's jurisdiction.

(3) Any public library located within the local agency's jurisdiction.

(c) The report shall be completed on or before December 31, 2008, and shall be updated annually.

Water Code Section 9142. Added by AB 156

9142. A local agency responsible for the operation and maintenance of a project levee may propose to the board an upgrade of the project levee if the local agency determines that the upgrade is appropriate. The local agency may implement that upgrade if approved by the board.

Water Code Section 9600. Added by SB 5

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

Water Code Section 9601. Added by SB 5

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.

Water Code Section 9602. Added by SB 5

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.

Water Code Section 9603. Added by SB 5

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.

Water Code Section 9610. Added by SB 5

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.

Water Code Section 9611. Added by SB 5

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.

Water Code Section 9612. Added by SB 5

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.

Water Code Section 9613. Added by SB 5

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.

Water Code Section 9614. Added by SB 5

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.

Water Code Section 9615. Added by SB 5

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.

Water Code Section 9616. Added by SB 5

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).

Water Code Section 9620. Added by SB 5

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.

Water Code Section 9621. Added by SB 5

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.

Water Code Section 9622. Added by SB 5

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.

Water Code Section 9623. Added by SB 5

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.

Water Code Section 9624. Added by SB 5

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.

Water Code Section 9625. Added by AB 5

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) For qualifying projects pursuant to subdivision (a), the state's share of the nonfederal share shall be set at a minimum level of 50 percent.

(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.

Water Code Section 9650. Added by AB 156

9650. (a) (1) Commencing July 1, 2008, the allocation or expenditure of funds by the state for the upgrade of a project levee, if that upgrade is authorized on or after July 1, 2008, that protects an area in which more than 1,000 people reside shall be subject to a requirement that the local agency responsible for the operation and maintenance of the project levee and any city or county protected by the project levee, including a charter city or charter county, enter into an agreement to adopt a safety plan within two years. If a city or county is responsible for the operation and maintenance of the project levee, the governing body shall approve a resolution committing to the preparation of a safety plan within two years.

(2) The local entity responsible for the operation and maintenance of the project levee shall submit a copy of the safety plan to the department and the Reclamation Board.

(b) The safety plan, at a minimum, shall include all of the following elements:

(1) A flood preparedness plan that includes storage of materials that can be used to reinforce or protect a levee when a risk of failure exists.

(2) A levee patrol plan for high water situations.

(3) A flood-fight plan for the period before state or federal agencies assume control over the flood fight.

(4) An evacuation plan that includes a system for adequately warning the general public in the event of a levee failure, and a plan for the evacuation of every affected school, residential care facility for the elderly, and long-term health care facility.

(5) A floodwater removal plan.

(6) A requirement, to the extent reasonable, that either of the following applies to a new building in which the inhabitants are expected to be essential service providers:

(A) The building is located outside an area that may be flooded.

(B) The building is designed to be operable shortly after the floodwater is removed.

(c) The safety plan shall be integrated into any other local agency emergency plan and shall be coordinated with the state emergency plan.

(d) This section does not require the adoption of an element of the safety plan that was adopted previously and remains in effect.

Water Code Section 9651. Added by AB 156

9651. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this part.

(a) "Emergency plan" and "state emergency plan" have the meanings set forth in subdivisions (a) and (b), respectively, of Section 8560 of the Government Code.

(b) "Essential service providers" includes, but is not limited to, hospitals, fire stations, police stations, and jails.

(c) "Long-term health care facility" has the same meaning as defined in Section 1418 of the Health and Safety Code.

(d) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(e) "Residential care facility for the elderly" has the same meaning as defined in Section 1569.2 of the Health and Safety Code.

(f) "School" means a public or private preschool, elementary school, or secondary school or institution.

(g) "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, 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 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

(h) (1) "Upgrade of a project levee" means installing a levee underseepage control system, increasing the height or bulk of a levee, installing a slurry wall or sheet pile into the levee, rebuilding a levee because of internal geotechnical flaws, or adding a stability berm.

(2) Notwithstanding paragraph (1), an upgrade of a project levee does not include any action undertaken on an emergency basis.

Water Code Section 12585.12. Added by AB 156

12585.12. The department and the board may participate with the federal government or local agencies in the design of environmental enhancements associated with a federal flood control project, and may participate in the construction of environmental enhancements associated with a federal flood control project for which the state has authorized state participation.

Water Code Section 12878. Added by AB 156

12878. Unless the context otherwise requires, the following definitions apply throughout this chapter:

(a) "Department" means Department of Water Resources.

(b) "Director" means the Director of Water Resources.

(c) "Board" means the State Reclamation Board.

(d) Wherever the words "board or department" or "board or director" are used together in this chapter they shall mean board as to any project in the Sacramento or San Joaquin Valleys or on or near the Sacramento River or the San Joaquin River or any of their tributaries, and department or director as to any project in any other part of the state outside of the jurisdiction of the board.

(e) "Project" means any project that has been authorized pursuant to Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) and concerning which assurances have been given to the Secretary of the Army or the Secretary of Agriculture that the state or a political subdivision thereof will operate and maintain the project works in accordance with regulations prescribed by the federal government or any project upon which assurances have been given to the Secretary of the Army and upon which the Corps of Engineers, United States Army, has performed work pursuant to Section 208 of Public Law 780, 83rd Congress, 2nd Session, approved September 3, 1954.

(f) "Maintenance" means work described as maintenance by the federal regulations issued by the Secretary of the Army, the Secretary of Agriculture, the department, or the board for any project.

(g) "Maintenance area" means described or delineated lands that are found by the board or department to be benefited by the maintenance and operation of a particular unit of a project.

(h) "Unit" means any portion of the works of a project designated as a unit by the board or department, other than the works prescribed in Section 8361, or works operated and maintained by the United States.

(i) "Land" includes improvements.

(j) "Local agency" means and includes all districts or other public agencies responsible for the operation of works of any project under Section 8370, Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) or any other law of this state.

(k) "Cost of operation and maintenance" means, for the purposes of maintenance areas established after July 31, 2004, as the result of relinquishment by a local agency pursuant to Section 12878.1 only, the cost of all maintenance, as defined in subdivision (f), and shall also include, but is not limited to, all of the following costs:

(1) All costs incurred by the department or the board in the formation of the maintenance area under this chapter.

(2) Any costs, if deemed appropriate by the department, to secure insurance covering liability to others for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(3) Any costs of defending any action brought against the state, the department, or the board, or any employees of these entities, for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(4) Any costs incurred in the payment of any judgment or settlement of an action against the state, the department, or the board, or any employees of these entities, for damages arising from the formation of the maintenance area or from any maintenance activities of the department or flooding in the maintenance area.

Water Code Section 12878.1. Amended by AB 156

12878.1. (a) ~~Whenever~~ If the department ~~finds~~ determines that a unit of a project is not being operated or maintained in accordance with the standards established by federal regulations ~~or whenever~~, if the department determines that the modification of a unit of a project that has been permitted by the board and that provides flood protection is not being operated or maintained in accordance with the requirements established by the board or the department, or if the governing body of a local agency obligated to operate and maintain that unit by resolution duly adopted and filed with the department declares that it no longer desires to operate and maintain the project unit, the department shall prepare a statement to that effect specifying in detail the particular items of work necessary to be done in order to comply with the standards of the federal government and the requirements of the board or the department together with an estimate of the cost thereof for the current fiscal year and for the immediately ensuing fiscal year.

(b) Subject to subdivision (c), but notwithstanding any other provision of law, the board or the department is not required to proceed in accordance with subdivision (a) or with the formation of a maintenance area under this chapter if neither the board nor the department has given the nonfederal assurances to the United States required for the project. If neither the board nor the department has given the nonfederal assurances to the United States

required for the project, the board or department may elect to proceed with the formation if it determines that the formation of a maintenance area is in the best interest of the state.

(c) ~~(1) Subdivision (b) does not apply to any project for which an application for the formation of a maintenance area under this chapter has been submitted to the department by a local agency on or before July 1, 2003.~~ If a local agency requests the department to form a maintenance area by resolution duly adopted and filed with the department, the department shall estimate the cost of preparing the statement of necessary work and the cost thereof, and all other applicable costs incurred by the department before the formation of the maintenance area. The department shall submit that estimate to the local agency. The department is not required to perform any additional work to form that maintenance area until the local agency pays the department the amount estimated pursuant to this subdivision.

~~(2) Subject to paragraph (3), the department or the board shall proceed in accordance with subdivision (a) and with the formation of a maintenance area in accordance with this chapter for any project described in paragraph (1).~~

~~(3) Before the department or the board forms a maintenance area pursuant to this subdivision, the local agency shall enter into an agreement with the department pursuant to which the local agency agrees to indemnify and hold and save harmless the state, its officers, agents, and employees for any and all liability for damages that may arise out of the planning, design, construction, operation, maintenance, repair, or rehabilitation of the project, or the dissolution or modification of the maintenance area formed pursuant to this subdivision.~~

Water Code Section 12878.21. Amended by AB 156

12878.21. Upon the formation of a maintenance area, the department shall thereafter operate and maintain the unit until such time as the maintenance area may be dissolved pursuant to ~~the provisions of~~ this chapter. If the board or the department forms a maintenance area for a portion of a unit of a project, any remaining portion of the unit of a project not included in the maintenance area shall remain the responsibility of the local agency obligated to operate and maintain that unit.

Water Code Section 12878.23. Amended by AB 156

12878.23. ~~The~~ (a) The board or the department may modify the boundaries of any established maintenance area or zones ~~therein~~ within the maintenance area, the description of works to be maintained ~~therein~~ within the maintenance area, and the determination of relative benefits within any zone ~~may be modified by the board or department~~, upon its own initiative or upon petition by the governing body of the local agency formerly responsible for the operation and maintenance of the unit or by the board of supervisors of the county in which all or a portion of the unit is located.

(b) The board or the department may consolidate maintenance areas that share a common boundary.

NOTES