



Item #07-7-2 Action

Flood Management Committee

July 2, 2007

SACOG Position on Flood Control Bills

Issue: Staff is tracking eight flood control bills that attempt to more explicitly link local plans for flood protection and land use to the state's flood protection responsibilities. While staff anticipates many of the bills will undergo further revision, the committee may want to consider taking positions at this stage.

Recommendation: This is an action item in case the committee wishes to take a position on any of the bills. In that instance, the Flood Management Committee recommends that the Board direct staff to write position letters for bills for which the committee determines SACOG should be more actively involved.

Discussion: Staff was directed to track eight flood control bills that are most relevant to the implementation of Blueprint and the MTP and for which the committee may want to take a position. Staff was also directed to monitor two bills that may affect SACOG, AB 26 (Nakanishi) regarding habitat plans and SB 17 (Florez) regarding composition and responsibilities of the State Reclamation Board.

Key bills for which the committee may want to take a position are highlighted in Attachment A and briefly described relative to SACOG Floodplain Management Strategy in Attachment B. Generally, the bills of concern would require the state to develop a plan of flood control, with which local general plans or flood control plans would have to be consistent. Jurisdictions, developers, or the state would be required to notify property owners of the flood risks and level of protection, encourage the purchase of insurance, and require an emergency response plan. An urban level of flood protection for areas with 10,000 people or more is required, but not specified other than having to be higher than a 100-year level of protection. Flood protections plans would be required to achieve multiple objectives, such as habitat enhancement and groundwater recharge.

One bill not directly related to SACOG's strategy is AB 70 (Jones) which would require local jurisdictions to share liability for new development in areas currently not included in an urban growth plan and considered to unreasonably increase the state's exposure to flood liability. The bill also applies where a jurisdiction fails to comply with other applicable provisions of existing law. The bill is still active and SACOG may want to consider taking a position.

Approved by:

Mike McKeever
Executive Director

MM:DS:gg
Attachment

Key Staff: David Shabazian, Senior Planner, (916) 340-6231

FLOOD BILLS 2007-08 CA LEGISLATIVE SESSION

July 2, 2007

	Bond Funds	Flood Plans	Small Communities	Surface Storage	Delta	Other	Tracking	Notes
AB 5 (Wolk) – Flood Control Plans	X	X	X		X		X	Active
AB 26 (Nakanishi) – Natural Community Conservation Plan for Central Valley Drainage System		X						Shelved
AB 41 (LaMalfa) – Surface Water Storage	X			X				
AB 70 (Jones) – Flood Liability						X	X	Active
AB 156 (Laird) – Mapping, Reporting, O&M, Environ. Enhancements, Safety Plans	X	X					X	Active
AB 162 (Wolk) – General Plan Requirements for Flood Hazard Information		X					X	Active
AB 783 (Arambula) – Predevelopment Grant Funding	X		X					Active
AB 930 (Jones) – Sacramento Area Flood Control Agency Act		X					X	
AB 1315 (Ruskin) – Criteria for Selecting Flood Control Projects	X							
AB 1452 (Wolk) – Central Valley Flood Protection	X	X	X		X		X	Active
SB 5 (Machado) – State Plan of Flood Control	X	X	X		X		X	Active
SB 6 (Oropeza) – Climate Change Considerations in Tentative Map Approval		X						
SB 17 (Florez) – Reclamation Board Composition and Name						X		Monitoring
SB 34 (Torlakson) – Beneficiary Pays System for Delta Flood Control					X			
SB 276 (Steinberg) – State Appropriation for Folsom Dam				X				Support letter sent
SB 378 (Steinberg) – Expenditure of Bond Funds for Emergency Projects	X	X					X	Active
SB 399 (Dutton) – Delta Water Infrastructure					X			
SB 424 (Denham) – Bond Allocations for Stanislaus and Merced Counties	X							
SB 1002 (Perata) – Small Community Grants, Surface Storage Studies	X		X	X			X	

Floodplain Management Strategy

(Annotated to relate current flood bills to the strategy)

- Denotes strategy component where a bill(s) may not be consistent and for which SACOG may want to request amendments or take a position.
- ✓ Bill(s) consistent with SACOG strategy component
- Bill(s) inconsistent with SACOG strategy component

1. Prior to levee evaluations and improvement plans:

- Create a land use strategy for the region addressing development in the floodplain based on the Blueprint and the floodplain management strategy components listed below in items 1-4. Some have called this the “Dryprint.”
 - ✓ **AB 162 (Wolk), and SB 5 (Machado) call for land use plans to be updated in consideration of flood risk and flood protection.**
 - ✓ **AB 5 (Wolk) findings and declarations include a statement that “land use planning must be integrated with flood risk management.”**
 - ✓ **SB 5 also requires the zoning ordinance to be updated.**
- Inspect levees and report conditions regularly;
 - ✓ **AB 5 and SB 5 call for state flood control plans that include regular updates. Though not directly stated, inspection would likely be part of these updates.**
- Notify property owners and occupants of flood risk via real estate transaction disclosures and regular notices by local flood management districts cooperating with affected local jurisdictions;
 - ✓ **AB 5 requires notification by the seller or developer. SB 5 requires jurisdictions to provide notification of flood risk.**
 - ✓ **AB 156 (Laird) would require the state to notify property owners.**
- Require flood insurance through a plan enforced by Department of Water Resources;
 - ✓ **AB 5 requires flood insurance for new homes to be provided by a developer or developer’s agent until state flood protection standards are met by the jurisdiction or for 10 years, which ever comes first.**
 - ✓ **SB 5 requires only that the flood risk notice describe the consequences of not having insurance.**
- Require a plan for emergency preparation, response, and recovery;
 - ✓ **AB 5 and SB 5 require local and state emergency response plans,**

respectively.

- Ensure new development does not increase stormwater discharge above peak flow;
 - **Stormwater discharge is not specifically addressed by the bills.**

2. While making improvements to achieve 100-year level of protection, apply all of the above and include:

- Use FEMA's development conditions while achieving certified 100-year level of protection.
- Use FEMA's definition of infill;
 - **The bills have no reference to FEMA's requirements while achieving 100-year protection, nor is there reference to FEMA's definition of infill.**
- Support a public policy goal of achieving an urban level of flood protection (approximately 200 years) and require local land use agencies to indicate, as part of their adopted risk management plan, how urban standard flood protection will be achieved over time. Assuming the process for developing the engineering, environmental, and financial elements of the plan and its expected implementation timeline are reasonable and feasible, local agencies would be permitted to proceed with development based on meeting applicable National Flood Insurance Program requirements during the time period when the local jurisdiction is working to achieve urban standard flood protection (SAFCA White Paper, March 2006);
 - ✓ **AB 5 and AB 1452 (Wolk) require that urban areas have flood protection greater than the 100-year standard, but do not specify to what level.**
 - ✓ **SB 5 does not set an objective for an urban level of protection,**
 - **SB 5 cites in its findings and declarations, the CALFED Science Conference in 2006 that suggest a 500-year level of protection as the minimum that should be considered.**
- Development in flood-prone areas will be allowed only where flood mitigation, directly tied to the development, is part of a local plan of flood protection. Examples of such mitigation include levee improvements, floodway land acquisition, channel improvement, and reservoir operational improvements.
 - ✓ **State and local flood protection plans would be flood mitigation plans.**
 - ✓ **SB 5 requires that the jurisdiction find that: 1) the flood management facilities provide protection from unreasonable risk of flooding, or 2) development conditions, such as building standards or other mitigation, will provide protection from the unreasonable risk of flooding,**
 - ✓ **AB 162 requires that applicable elements of a general plans include goals, policies, and objectives to protect the public from the risk of flooding.**

- ✓ **AB 5 encourages a local plan of flood protection and gives funding priority to areas that have plans. In the findings and declarations for the Local Plans of Flood Protection chapter of AB 5, the author includes a statement that “in order to connect local government land use decisions with state flood management policies, financing, and facilities, it is necessary for local government land use decisions to include confirmation that new developments will enjoy sufficient protection from flood hazards.”**

- **Apply a lower flood protection standard to small communities and rural areas;**
 - **AB 5 and SB 5 use the water code’s definition of “urban” as 10,000 or more people; SACOG set the small community threshold at 3,500 people.**
 - ✓ **AB 5 specifies small communities and rural area.**
 - ✓ **SB 5 distinguishes only rural areas.**
 - ✓ **Both bills suggest a low protection standard for these areas.**

- **Establish small community development conditions;**
 - **No specific small community conditions are included in the bills; however, the requirements to either have a plan (AB 5) or make findings of adequate flood protection (SB 5) would apply to any community.**

- **Identify undeveloped areas where urban areas can purchase flood easements. Where possible, focus on lands that are, or will be, part of a Habitat Conservation Plan or Natural Communities Conservation Plan;**
 - ✓ **AB 5 and SB 5 look for non-structural improvements to the Central Valley system of flood control including easements, and that where feasible, such areas meet multiple objectives including improving habitat quality, diversity, and connectivity.**
 - ✓ **AB 930 would authorize SAFCA to purchase flood easements in areas outside of its jurisdiction given that such easements are consistent with applicable county plans and the State Plan of Flood Control.**

- **Include flood management priorities established in Integrated Regional Water Management Plans;**
 - ✓ **AB 5 and SB 5 call for flood control improvements to, wherever feasible, achieve multiple objectives.**
 - ✓ **Many of the objectives of an Integrated Regional Water Management Plan could be addressed, including habitat improvements, groundwater recharge, and promoting natural hydrologic and geomorphic processes.**

3. Once 100-year protection is achieved, apply all of the above and include:

- Set a minimum 200-year level of protection design standards for urban levees; use a lower standard for levees protecting small communities and rural areas.
 - **AB 5 only calls for greater than 100-year urban level of protection.**
 - **SB 5 has not yet set an urban standard.**
- Do not impose a strict timeline to achieve an urban level of flood protection, but require that flood mitigation for new development is part of a local plan to achieve urban standard flood protection.
 - ✓ **AB 5 and SB 5 do not require a timeline.**

4. Regarding State involvement in local flood protection efforts:

- Focus on lands protected by State project levees, but include non-project levees where necessary and appropriate to support efforts to improve the State project levee system (i.e., a system-wide approach to improving flood protection in the Central Valley);
 - ✓ **AB 5 and SB 5 emphasize improvements to the State Plan of Flood Control, but also recognize the necessity to include other “non-project” facilities in a central valley flood protection plan in order to make system-wide improvements.**
- Focus Proposition 1E and 84 bond proceeds on areas with the highest level of risk and appropriate a portion of the proceeds to small communities based on their percentage of total development in the floodplain;
 - ✓ **AB 5, AB 1452, SB 5, and SB 378 (Steinberg) set priorities for areas with the greatest risk as determined by DWR.**
 - ✓ **AB 5 and AB 1452 also place funding priority on jurisdictions with a local plan of flood protection.**
 - **The bills recognize the need to provide sufficient protection and risk reduction strategies to small communities, but do not assign any percentage of state bond funds for such improvements.**
- Preclude Reclamation Board review of tentative map applications for individual development projects;
 - ✓ **None of the bills include tentative map review by the Reclamation Board.**
 - ✓ **SB 17 (Florez) calls for the Reclamation Board to “review and comment on local and regional land use plans regarding their compliance with flood protection and public safety standards adopted by the board.”**
 - ✓ **SB 5 and AB 162 call for general plan updates to be consistent with the state’s flood protection plan once completed.**

- ✓ **AB 5 requires a local flood protection plan to be reviewed by DWR to ensure consistency with the state's plan. To the extent that a local flood plan includes land use regulations, DWR could review local land use plans.**
- Establish what, if any, local oversight of floodplain management plans should be required and who would be responsible for that oversight.
 - ✓ **AB 5 requires local flood control plans to be consistent with state flood protection plans, which would be the responsibility of a local flood control agency.**
 - ✓ **SB 5 and AB 162 require local land use plan to be consistent with state flood protection plans, which would be the responsibility of a local land use authority.**