



**Item #07-7-13
Action**

SACOG Board of Directors

July 12, 2007

SACOG Position on AB 70 (Jones)

Issue: AB 70 (Jones) would establish findings by which a city or county may be required to share flood damage liability with the state.

Recommendation: The Flood Management Committee recommends that the SACOG Board direct staff to write a letter opposing AB 70, but to also authorize staff to negotiate amendments to the bill if necessary.

Committee Action/Discussion: At its July 9th meeting, the Flood Management Committee recommended an oppose position on AB 70 (Attachment A), which may require a city or county to contribute its “fair and reasonable share” of property damage caused by flooding by “unreasonably approving new development” that increases the state’s exposure to such liability. The findings for determining whether a city or county would be required to contribute its share of the property damage are:

1. The city’s or county’s action increased the state’s exposure to liability for property damage; and
2. The increased liability exposure was a result of “unreasonably approving new development;” and
3. The new development was approved in an “undeveloped area;” and
4. The undeveloped area is protected by a state flood control project and is not already designated for development in a specific or general plan or by a local zoning ordinance; and
5. The city or county failed to comply with “other applicable provisions in existing law.”

While the committee is recommending an oppose position on AB 70, there was recognition that the bill continues to move through the legislature and that SACOG should be prepared to negotiate amendments with the author if necessary. The key areas that staff would seek to clarify include:

1. The definition of “unreasonable approval” of development;
2. The types of “new development” that would trigger the bill’s provisions;
3. The nexus between the existing law that was violated by the city or county and the flood damage caused;
4. The “fair and reasonable” share of liability shifted to the local jurisdiction;
5. The criteria or standards used to evaluate increases in the state’s exposure to liability;
6. The restriction of the bill’s provision to non-urban open-space lands.

Approved by:

Mike McKeever
Executive Director

MM:DS:ts
Attachment

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