
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Fran Pavley, Chair
2015 - 2016 Regular

Bill No: AB 747 **Hearing Date:** June 9, 2015
Author: Eggman
Version: February 25, 2015 Introduced
Urgency: No **Fiscal:** No
Consultant: Dennis O'Connor

Subject: Planning and land use: Sacramento-San Joaquin Valley.

BACKGROUND AND EXISTING LAW

In 2007, the Governor signed a package of five bills designed to increase protection from damaging flood waters. Included in those bills, were a number of requirements for local governments in the Sacramento-San Joaquin Valley to improve local land use and other planning decisions by strengthening the link between land use and flood management.

Included in the package of bills was SB 5 (Machado, Chapter 364, Statutes of 2007) that requires cities and counties to amend their general plans to incorporate data from the Central Valley Flood Protection Board Flood Plan and then to update their zoning ordinances to be consistent with the revised general plan. Additionally, the law requires that once the general plan and zoning ordinances have been updated, the local government is prohibited, starting in 2016, from allowing development on property within a flood hazard zone unless the property is determined to have 200-year flood protection.

That law also prohibits a city or county "within the Sacramento-San Joaquin Valley shall not approve a discretionary permit or other discretionary entitlement, or a 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" that certain criteria are met.

PROPOSED LAW

This bill would limit the prohibition on approving a discretionary permit or other discretionary entitlement to those permits or entitlements that "would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building."

ARGUMENTS IN SUPPORT

According to the author, "In 2007, the Governor signed a package of five bills intended to increase protection from damaging flood waters. Included in those bills, were a number of requirements for local governments in the Sacramento-San Joaquin Valley to improve local land use and other planning decisions by strengthening the link between land use and flood management.

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ordinances to be consistent with the revised general plan. Additionally, the law requires that once the general plan and zoning ordinances have been updated, the local government is prohibited, starting in 2016, from allowing development on property within a flood hazard zone unless the property is determined to have 200-year flood protection. The law also captures permits for construction and remodel that does not result in an increase in allowed occupancy, which may include the construction of cell towers, the reconstruction of structurally unsound buildings/rooms, and other permit-required work. AB 747 revises flood hazard planning and development requirements for communities in the Sacramento-San Joaquin Valley to allow cities and communities within the area to issue permits for construction that does not result in an increase in allowable occupancy.

ARGUMENTS IN OPPOSITION

None received.

COMMENTS

Resolves A Long-Standing Dispute. This bill amends a section of the government code that has for years been the subject of conflicting interpretations. Some suggested the section as written would prohibit approving *ANY* discretionary permit within a flood hazard zone. This would include things like permits to add a drive-thru at a fast food restaurant or the construction of cell phone towers. In their view, the section as drafted had a typo, a “missing comma”.

Others contended that there was no missing comma, and the section clearly stated what the author intended. The amendment to the government code section appears to resolve the different interpretations.

Prior Legislation.

- AB 2108 (Eggman) of 2014 would have made a number of changes to the statutes relating to flood management in the Sacramento-San Joaquin Valley, including a somewhat different approach to the issue that this bill is addressing, and included other broader changes. AB 2108 was never heard by a policy committee in the Senate.
- AB 125 (Eggman) of 2014 was substantially amended in the Senate on August 22, 2014, to include language that is substantially similar to AB 747. Amendments to AB 125 on August 30, 2014, added in a new section relating to the Department of Water Resources and the Urban Flood Risk Reduction Program. That bill passed the Senate, but died on the Assembly Unfinished Business File.

Double-Referral. The Rules Committee referred this bill to both the Committee on Natural Resources and Water and to the Committee on Governance and Finance. Therefore, if this bill passes this committee, it will be referred to the Committee on Governance and Finance, which will consider the issues within their jurisdiction

SUGGESTED AMENDMENTS: None

AB 747 (Eggman)

SUPPORT

City of Stockton (co-sponsor)

San Joaquin County Board of Supervisors (co-sponsor)

City of Sacramento

OPPOSITION

None Received

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