

**Senate Bill No. 554**

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Passed the Senate August 26, 2016

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*Secretary of the Senate*

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Passed the Assembly August 24, 2016

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2016, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_

*Private Secretary of the Governor*

**SB 554**

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CHAPTER \_\_\_\_\_

An act to amend Sections 12986 and 12987.5 of, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 554, Wolk. Delta levee maintenance.

Existing law establishes a delta levee maintenance program pursuant to which a local agency may request reimbursement for costs incurred in connection with the maintenance or improvement of project or nonproject levees in the Sacramento-San Joaquin Delta. Existing law declares legislative intent to reimburse eligible local agencies under this program, until July 1, 2018, in an amount not to exceed 75% of those costs that are incurred in excess of \$1,000 per mile of levee. Existing law, until July 1, 2018, authorizes the board to provide funds to an eligible local agency under this program in the form of an advance in an amount that does not exceed 75% of the estimated state share.

This bill would extend the authorization to reimburse eligible local agencies under the program and advance funds until July 1, 2020.

Existing law, on and after July 1, 2018, declares the intent of the Legislature to reimburse eligible local agencies under this program in an amount not to exceed 50% of those costs that are incurred in any year for the maintenance and improvement of levees.

This bill, on and after July 1, 2020, would declare legislative intent to reimburse eligible local agencies under this program in an amount not to exceed 50% of the costs.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12986 of the Water Code, as amended by Section 3 of Chapter 549 of the Statutes of 2012, is amended to read:

12986. (a) It is the intent of the Legislature to reimburse an eligible local agency pursuant to this part for costs incurred in any

year for the maintenance or improvement of project or nonproject levees as follows:

(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of project or nonproject levee is one thousand dollars (\$1,000) or less.

(2) Not more than 75 percent of any costs incurred in excess of one thousand dollars (\$1,000) per mile of project or nonproject levee shall be reimbursed.

(3) (A) As part of the project plans approved by the board, the department shall require the local agency or an independent financial consultant to provide information regarding the agency's ability to pay for the cost of levee maintenance or improvement. Based on that information, the department may require the local agency or an independent financial consultant to prepare a comprehensive study on the agency's ability to pay.

(B) The information or comprehensive study of the agency's ability to pay shall be the basis for determining the maximum allowable reimbursement eligible under this part. Nothing in this paragraph shall be interpreted to increase the maximum reimbursement allowed under paragraph (2).

(4) Reimbursements made to the local agency in excess of the maximum allowable reimbursement shall be returned to the department.

(5) The department may recover, retroactively, excess reimbursements paid to the local agency from any time after January 1, 1997, based on an updated study of the agency's ability to pay.

(6) All final costs allocated or reimbursed under a plan shall be approved by the Central Valley Flood Protection Board for project and nonproject levee work.

(7) Costs incurred pursuant to this part that are eligible for reimbursement include construction costs and associated engineering services, financial or economic analyses, environmental costs, mitigation costs, and habitat improvement costs.

(b) Upon completion of its evaluation pursuant to Sections 139.2 and 139.4, by January 1, 2008, the department shall recommend to the Legislature and the Governor priorities for funding under this section.

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(c) Reimbursements made pursuant to this section shall reflect the priorities of, and be consistent with, the Delta Plan established pursuant to Chapter 1 (commencing with Section 85300) of Part 4 of Division 35.

(d) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 12986 of the Water Code, as amended by Section 2 of Chapter 549 of the Statutes of 2012, is amended to read:

12986. (a) It is the intent of the Legislature to reimburse from the General Fund an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:

(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of levee is one thousand dollars (\$1,000) or less.

(2) Fifty percent of any costs incurred in excess of one thousand dollars (\$1,000) per mile of levee shall be reimbursed.

(3) The maximum total reimbursement from the General Fund shall not exceed two million dollars (\$2,000,000) annually.

(b) This section shall become operative on July 1, 2020.

SEC. 3. Section 12987.5 of the Water Code is amended to read:

12987.5. (a) In an agreement entered into under Section 12987, the board may provide for an advance to the applicant in an amount not to exceed 75 percent of the estimated state share. The agreement shall provide that no advance shall be made until the applicant has incurred costs averaging one thousand dollars (\$1,000) per mile of levee.

(b) Advances made under subdivision (a) shall be subtracted from amounts to be reimbursed after the work has been performed. If the department finds that work has not been satisfactorily performed or where advances made actually exceed reimbursable costs, the local agency shall promptly remit to the state all amounts advanced in excess of reimbursable costs. If advances are sought, the board may require a bond to be posted to ensure the faithful performance of the work set forth in the agreement.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute,

that becomes operative on or before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

Approved \_\_\_\_\_, 2016

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*Governor*

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UNFINISHED BUSINESS

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Bill No: SB 554  
Author: Wolk (D)  
Amended: 8/17/16  
Vote: 21

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SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 1/12/16  
AYES: Pavley, Stone, Allen, Hertzberg, Hueso, Jackson, Monning, Vidak, Wolk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 1/21/16  
AYES: Lara, Bates, Beall, Hill, Leyva, Mendoza, Nielsen

SENATE FLOOR: 39-0, 1/27/16  
AYES: Allen, Anderson, Bates, Beall, Block, Cannella, De León, Fuller, Gaines, Galgiani, Glazer, Hall, Hancock, Hernandez, Hertzberg, Hill, Hueso, Huff, Jackson, Lara, Leno, Leyva, Liu, McGuire, Mendoza, Mitchell, Monning, Moorlach, Morrell, Nguyen, Nielsen, Pan, Pavley, Roth, Runner, Stone, Vidak, Wieckowski, Wolk  
NO VOTE RECORDED: Berryhill

ASSEMBLY FLOOR: 72-4, 8/24/16 - See last page for vote

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**SUBJECT:** Delta levee maintenance

**SOURCE:** Central Valley Flood Control Association

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**DIGEST:** This bill extends the July 1, 2018, sunset date for the Delta Levee Subventions program by two years. Specifically, this bill maintains the state's 75% maximum share for Delta levee maintenance costs in excess of \$1,000 per mile until July 1, 2020.

*Assembly Amendments* reinstate a sunset on the Delta Levee Subventions program's 75 percent reimbursement rate and set the sunset to be July 1, 2020.

**ANALYSIS:**

Existing law:

- 1) Creates the Delta levee maintenance subvention program. This program provides reimbursement funds to local agencies for costs of maintaining or improving project or nonproject levees.
- 2) Provides that the reimbursement rate is up to 75 percent of any costs incurred in excess of \$1,000 per mile, based on an assessment of the agency's ability to pay.
- 3) Provides that the 75 percent reimbursement rate ends July 1, 2018, at which time the reimbursement rate would become 50 percent of any costs incurred in excess of \$1,000 per mile.

This bill extends the current 75 percent reimbursement rate for Delta levee maintenance costs in excess of \$1,000 per mile to July 1, 2020.

## **Background**

*Legislature has extended the 75 percent reimbursement rate three times.* The Legislature created the Delta levee subvention program in 1996. The 75 percent reimbursement rate was to be in effect for 10 years, at which time the rate would drop to 50 percent. The Legislature has subsequently delayed the reduction in the reimbursement rate in 2006, 2010, and 2012.

## **Comments**

*One of the few Delta bright spots.* The 2010 Public Policy Institute of California publication *Comparing Futures for the Sacramento - San Joaquin Delta* noted, "The Delta Levee Subventions Program, in particular, has significantly reduced levee failures and is the most important state investments in Delta levees today." It is still true five years later. Moreover, it is also one of the few Delta programs that have shown tangible results.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee, "Potential annual cost pressures, likely in the millions of dollars (GF), to fund local projects to improve and maintain levees. Without this bill, the state cost share formula would decrease from 75% to 50% on July 1, 2018."

**SUPPORT:** (Verified 8/24/16)

Central Valley Flood Control Association (source)

Association of California Water Agencies  
Bethel Island Municipal Improvement District  
California State Association of Counties  
Collinsville Levee District  
Contra Costa County  
Delta Counties Coalition  
Delta Protection Commission  
East Bay Municipal Utilities Commission  
Reclamation District No. 3  
Reclamation District No. 150  
Reclamation District No. 548  
Reclamation District No. 756  
Reclamation District No. 799  
Reclamation District No. 2025  
Reclamation District No. 2026  
Reclamation District No. 2028  
Reclamation District No. 2029  
Reclamation District No. 2041  
Reclamation District No. 2044  
Reclamation District No. 2060  
Reclamation District No. 2065  
Rural County Representatives of California  
San Joaquin County  
Solano County  
Solano County Farm Bureau  
Yolo County Farm Bureau

**OPPOSITION:** (Verified 8/24/16)

Calleguas Municipal Water District  
Cucamonga Valley Water District  
East Orange County Water District  
Eastern Municipal Water District  
Inland Empire Utilities Agency  
Las Virgenes Municipal Water District  
Long Beach Water Commission  
Mesa Water District  
Metropolitan Water District of Southern California  
Municipal Water District of Orange County  
Santa Margarita Water District  
South Coast Water District

Three Valleys Municipal Water District  
Upper San Gabriel Valley Municipal Water District  
Walnut Valley Water District  
Yorba Linda Water District

**ARGUMENTS IN SUPPORT:** According to the author, “By continuing the current cost share formula, SB 554 ensures that Delta reclamation districts can afford to maintain and improve Delta levees. Maintenance of the Delta levees is important to reduce flood risk and ensure the Delta can continue to serve its many valuable uses – as fertile farmland, a water conveyance, and a rich estuary ecosystem.”

**ARGUMENTS IN OPPOSITION:** According to a coalition of Southern California water agencies, “We recommend that a further amendment be made to SB 554 to direct DWR to enlist an independent entity, with financial expertise, to conduct an affordability and benefits assessment for the Delta Levee Subventions Program. It is simply unclear which Delta islands, if any, lack the economic standing to underwrite their own levee maintenance, and whether statewide interests merit a public subsidy for those levee improvements.

“We, the undersigned agree with the author, that levee improvements in the Delta are important to protect public health and safety, critical infrastructure and the fragile ecosystem. But it is also important to ensure the best use of limited state resources. An assessment of the program and accountability for the level of funding expended to date and in the future is long overdue.

“Absent the further amendment as noted above, we urge your NO vote on SB 554.”

**ASSEMBLY FLOOR:** 72-4, 8/24/16

**AYES:** Achadjian, Alejo, Travis Allen, Arambula, Atkins, Baker, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Dodd, Eggman, Frazier, Beth Gaines, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Roger Hernández, Holden, Jones, Jones-Sawyer, Kim, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Quirk, Ridley-Thomas, Salas, Santiago, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Rendon

**NOES:** Bigelow, Harper, Irwin, Melendez

**NO VOTE RECORDED:** Chau, Daly, Rodriguez, Steinorth

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116  
8/25/16 17:30:42

**\*\*\*\* END \*\*\*\***