

Date of Hearing: June 28, 2022

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Rebecca Bauer-Kahan, Chair

SB 489 (Laird) – As Amended June 13, 2022

SENATE VOTE: 36-0 (vote not relevant)

SUBJECT: Flood management projects: state funding: Pajaro River Flood Risk Management Project

SUMMARY: Authorizes the Department of Water Resources (DWR) to advance Flood Control Subventions Program funds to local agencies to implement the Pajaro River Flood Risk Management Project (Proposed Project). Specifically, **this bill:**

- 1) Limits the eligible recipients for flood subvention funds for the Proposed Project to Monterey or Santa Cruz counties or a local agency in either of those counties.
- 2) Provides that the state may advance flood subvention funds for the planning, engineering, design, and construction of the Proposed Project; the acquisition of required lands, easements, rights-of-way, and other facilities for the Proposed Project; and the mitigation of the Proposed Project.
- 3) Grants the state discretion to reduce retention withheld under any cost-share agreement to fund the Proposed Project to zero percent.
- 4) Authorizes the state to advance funds for the Proposed Project before federal funds are available to the Proposed Project so long as any advanced state funds do not exceed the nonfederal share of the Proposed Project.
- 5) Finds and declares that this special statute is necessary due to the unique need to improve flood control on the Pajaro River.
- 6) Makes technical and conforming changes.

EXISTING LAW:

- 1) Provides that the state has a primary interest in the manner in which flood waters shall be controlled for the protection of life and property and the control, storage, and use of the state's water resources [Water Code (WC) § 12578 *et seq.*].
- 2) Provides that a flood management project may receive financial assistance from the state if it is federally authorized and meets other specified requirements (WC § 12582.7 *et seq.*).
- 3) Provides that the state shall pay 50 percent of the nonfederal capital, environmental mitigation, and planning and engineering costs of flood management projects if authorized by the Legislature and if the project meets specified conditions (WC § 12585.7).
- 4) Provides the state may pay an additional 20 percent of the nonfederal share (up to 70 percent total) of a project if DWR or the Central Valley Flood Protection Board determine that the project meets one of the following objectives (WC § 12585.7):

- a) Protects, creates, or enhances endangered species or important habitats;
 - b) Protects or enhances open space;
 - c) Develops or enhances recreational opportunities;
 - d) Increases the level of protection for disadvantaged communities; or
 - e) Increases flood protection for state transportation facilities or state water supply facilities.
- 5) Defines “disadvantaged community” as a community with an annual median household income that is less than 80 percent of the statewide annual median household income (WC § 79505.5).
 - 6) Authorizes numerous projects for the control, conservation, and utilization of destructive flood waters in the interest of the public welfare.

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** This bill authorizes DWR to advance up to \$147 million (or the total nonfederal share) to the local agencies involved with implementing the Proposed Project even before the federal government appropriates or expends funds for the Proposed Project. The author argues that this change is necessary to keep the Proposed Project moving forward and notes that the locals are stepping up to contribute to funding the operations and maintenance of the Proposed Project due to “the recent passage of the voter-approved benefit assessment in South Santa Cruz County[...].” The author also points out that the Proposed Project is important “to protect the severely disadvantaged communities of Watsonville and Pajaro who have faced repeated floods due to inadequate levels of flood protection along the Pajaro River system.” Finally, the author maintains that the Legislature recognized the importance of and unique need for the Proposed Project in passing SB 496 last year and that this bill is the “final piece” in realizing the Proposed Project.
- 2) **Background.** The existing Pajaro River flood risk management project (Existing Project) was completed by the U.S. Army Corps of Engineers (Army Corps) in 1949. The Existing Project offers a low level of protection to the region and the area has experienced four major floods (1955, 1958, 1995, and 1998) since the levee system was first constructed. Congress has long recognized the inadequacy of flood protection in the area, first authorizing reconstruction of the levee system in the Flood Control Act of 1966 (Public Law 89-789, 80 Stat. 1421) and re-authorizing the Proposed Project in the Water Resources Development Act of 1990 (Public Law 101-640). The Santa Cruz County Flood Control and Water Conservation District and the Monterey County Water Resources Agency jointly maintain the Existing Project.

The Proposed Project will provide 100-year flood protection to approximately 10,000 acres in Santa Cruz and Monterey counties, including the City of Watsonville, the unincorporated Town of Pajaro, state transportation facilities (Highways 129 and 152 bridges) and the highly productive agricultural land in the region.

Proposed Project scope and cost. According to the Army Corps' December 2019 assessment, the Proposed Project entails building new setback levees, rebuilding existing levees, building new floodwalls, and building bank protection along various reaches of the Pajaro River, Corralitos Creek, and Salsipuedes Creek. The Army Corps estimates the Proposed Project will cost \$394 million. The Army Corps identifies a nonfederal share of \$147 million which, due to the passage of SB 496 (Laird) last year, can be 100 percent funded by the state.

- 3) **Arguments in support.** The City of Watsonville supports this bill citing the area's challenges with flooding over the decades and noting that the communities that will benefit from the Proposed Project have a per-capita income that is less than half the state and national averages. The City points out that "existing statutory law does not provide for advance payment of funds from the Subventions Program, and the community does not possess the financial capacity to front the reimbursable costs eligible under the [Proposed] Project's subventions authorization." Finally, the City argues that this bill "is critically important to the life and economic safety of the residents of Monterey and Santa Cruz counties."
- 4) **Related legislation.** SB 496 (Laird), Chapter 310, Statutes of 2021, authorizes DWR to pay up to 100 percent of specified nonfederal costs for reconstruction of the Proposed Project.

AB 489 (Stone), Chapter 350, Statutes of 2019, authorizes the state to make funds available, upon appropriation by the Legislature, for a flood control project on the Pajaro River even in the absence of matching federal funds.

REGISTERED SUPPORT / OPPOSITION:

Support

California Farm Bureau Federation
Watsonville, City of

Opposition

None on file

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