

Date of Hearing: August 20, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 639 (Ashby) – As Amended July 17, 2025

Policy Committee: Water, Parks and Wildlife

Vote: 11 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

**SUMMARY:**

This bill extends the deadline by five years for certain areas in the counties of Sacramento, Sutter, and Yuba to achieve urban level of flood protection.

Specifically, this bill, among other things:

- 1) Extends the deadline to achieve urban level of flood protection, from 2025 to 2030, for the following areas (as further defined in the bill): (a) the Natomas subarea of the City of Sacramento, (b) the Beach Lake subarea of the City of Sacramento and of the unincorporated area of the County of Sacramento, (c) the portions of the Natomas subarea located in the unincorporated area of the Counties of Sacramento and Sutter, and (d) the City of Marysville protected by the Marysville Ring Levee located in the City of Marysville in the County of Yuba.
- 2) Provides the City of Sacramento, City of Marysville, County of Sacramento, County of Sutter, and County of Yuba may be required to contribute their fair and reasonable share of any property damage caused by a flood in their respective jurisdiction to the extent the state's exposure to liability for property damage has been increased by the city or county unreasonably approving development in the areas subject to this bill until the city or county finds that the area has achieved urban level of flood protection.

**FISCAL EFFECT:**

This bill could result in higher liability exposure for the state, possibly in the millions of dollars (General Fund). The bill provides that the cities and counties covered by the bill may be required to contribute their fair and reasonable share of any property damage caused by a flood to the extent the state's exposure to liability has been increased by the city or country unreasonably approving any new development until the city or county finds the area has met urban level of flood protection. "Unreasonably approving" is defined in statute as approving a new development project without appropriately considering significant risks of flooding made known to the approving agency as of the time of approval and without taking reasonable and feasible action to mitigate the potential property damage to the new development resulting from a flood. With the deadline extension in this bill, development projects that may not otherwise be approved and built should the locals miss their current 2025 deadline could proceed for five additional years. This could extend and potentially increase the state's liability for flood damages in those areas, particularly if locals successfully demonstrate the projects were not unreasonably

approved and avoid sharing in any damages, or if locals are financially unable to cover their fair and reasonable share of property damage.

## COMMENTS:

### 1) **Purpose.** According to the author:

SB 639 is a regional bill that extends the deadline for projects necessary to achieve urban level of flood protection. This bill ensures that projects can be completed without additional bureaucratic delay. The extension is essential to prevent negative impacts on transportation and infrastructure in the Greater Sacramento Region.

### 2) **Background.** The level of flood risk in California's Central Valley is among the highest in the nation. According to the "Central Valley Flood Protection Plan 2022 Update," 1.2 million people and more than \$223 billion in structures and property are at risk from flooding.

***Urban Level of Flood Protection.*** The "urban level of flood protection" is the level of protection necessary to withstand a flood event that has a 1-in-200 chance of occurring in any given year. Under existing law, cities and counties in the Sacramento-San Joaquin Valley that are protected by the State Plan of Flood Control are prohibited from approving new development or increasing the housing density within existing developments unless the area is protected by flood risk reduction projects that provide urban level of flood protection. Areas that do not have urban level of flood protection must achieve, or make adequate progress towards achieving, urban level of flood protection by this year (2025). These requirements were enacted by the Legislature in 2007 as part of a comprehensive flood package resulting from increased awareness of the flood threat to Central Valley communities in the wake of Hurricane Katrina and the decision in *Paterno v. State of California* (2003) 114 Cal.App.4th 308. In *Paterno*, the court determined that the State of California can be liable for failure of levees if the state fails to have a "reasonable plan" for operating and maintaining the levees in the Sacramento and San Joaquin Valleys.

***Deadline Extensions.*** In recent years, the Legislature has passed a number of bills extending the deadline for certain urban areas to achieve urban level of flood protection, including most recently for the City of West Sacramento and Mossdale Tract in the City of Lathrop in San Joaquin County. Local agencies that have sponsored these bills have done so because of delays they have experienced in completing planned flood risk reduction projects. The process to plan, authorize, fund, and construct a flood risk reduction project is inherently lengthy and, oftentimes, a given flood risk reduction project is delayed for reasons beyond the control of a local agency.

The City of Sacramento, one of the co-sponsors of this bill, writes that all the capital improvements required to handle the state-defined 200-year flood event in the region have been completed except for three specific projects. While the city anticipates these projects will be completed in 2025, it asserts that any delays in the complex U.S. Army Corps of Engineers permit process and construction could lead to delaying completion past the end of 2025. The city writes:

Without an extension, the City would be facing a de facto suspension of approvals by imposing cost-prohibitive conditions for the majority

of projects, such as requiring new buildings to be elevated 10 or more feet above ground level. There would be significant impacts to the City and our efforts to build more housing and other projects. For example, in the Natomas Sub-area there are several projects that could be delayed, including a new hospital and various residential projects, which together could add up to approximately 1,900 residential units. In the Beach Lake Sub-area, approximately 735 new residential units could be hindered.

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