

SENATE THIRD READING

SB 639 (Ashby)

As Amended July 17, 2025

Majority vote

SUMMARY

Extends the deadline to achieve urban level of flood protection for the Natomas and Beach Lake subareas in the City of Sacramento, portions of the Natomas Basin in the Counties of Sacramento and Sutter, and the City of Marysville from 2025 to 2030.

Major Provisions

- 1) Extends the deadline to achieve urban level of flood protection from 2025 to 2030 for the following areas:
 - a) The Natomas subarea of the City of Sacramento;
 - b) The Beach Lake subarea of the City of Sacramento;
 - c) The portions of the Natomas Basin located in the unincorporated area of the Counties of Sacramento and Sutter; and
 - d) The City of Marysville protected by the Marysville Ring Levee.
- 2) Defines "City of Sacramento," "Natomas subarea," "Beach Lake subarea," and "City of Marysville" for purposes of this bill.
- 3) Provides the City of Sacramento, City of Marysville, County of Sacramento, County of Sutter, and the County of Yuba may be required to contribute their fair and reasonable share of any property damage caused by a flood in the areas subject to this bill to the extent that 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 before these areas have achieved urban level of flood protection.

COMMENTS

Today, the level of flood risk in California's Central Valley is among the highest in the nation. According to the *CV Flood Plan 2022 Update*, 1.23 million people and more than \$223 billion in structures and property are at risk from flooding. With historic storms like the Great Flood of 1862 and even more recent events like the series of atmospheric river-fed storms from the winter of 2023, human-made flood management efforts struggle to compete against the natural state of the Central Valley. Analysis done as part of ARkStorm 2.0 indicates that climate change has already increased the frequency and magnitude of severe storms that result in "megaflood" events (Huang and Swain). Perhaps more concerning relative to this bill, the researchers that produced ARkStorm 2.0 conclude "that extremely severe winter storm sequences, once thought to be exceptionally rare events, are likely to become much more common under essentially all plausible future climate trajectories—suggesting the 20th century hazard mapping, emergency response plans, and even physical infrastructure design standards may already be out of date in a warmer 21st century climate."

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.

In recent years, the Legislature has passed a series of bill [e.g., SB 586 (Eggman), Chapter 10, Statutes of 2024] extending the deadline for certain urban areas to achieve urban level of flood protection. 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 well beyond the control of a local agency. Because of this fact, the Legislature has been amenable to targeted extensions of the urban level of flood protection deadline. However, previous deadline extensions limit the state's liability by requiring the local agency that approves development in an area that has not achieved urban level of flood protection to shoulder some liability for damages in the event of a major flood. Under SB 586, for example, the flood management agencies for Mossdale Tract and the City of West Sacramento are liable for their "fair and reasonable share of any property damage caused by a flood" that occurs between 2025 and 2040. This bill imposes similar liability on the cities of Marysville and Sacramento and the counties of Sacramento, Sutter, and Yuba.

This bill extends the urban level of flood protection deadline for certain features of the larger American River Watershed Common Features Project (Common Features Project). The aspects of this project subject to the extension include: levee upgrades to protect the Natomas area of the City of Sacramento (area immediately northwest of downtown Sacramento), levee upgrades to protect unincorporated areas of Sacramento and Sutter counties in the Natomas Basin (areas north of City of Sacramento and east of Sacramento International Airport), and levee upgrades to protect the "Beach Lake subarea" (in south Sacramento). The Common Features Project provides flood protection to urban and urbanizing areas in the general vicinity of the confluence of the Sacramento and American Rivers and includes levee upgrades along the American River, around the Natomas Basin, and along parts of the Sacramento River. Initially, the Sacramento Area Flood Control Agency expected to complete all aspects of this project by the 2025 deadline; however, the sponsors City of Sacramento and County of Sacramento state that "the projects are at risk to not be completed by 2026 due to internal procedures and anticipated changes in staffing at the [U.S. Army Corps of Engineers]."

This bill extends the urban level of flood protection deadline for the Marysville Ring Levee project, a multi-phase project to strengthen a 7.6 mile levee that surrounds (hence "ring" moniker) and protects the City of Marysville. Most of this project has already been completed, but, due to delays that the City claims are beyond its control, a short stretch of levee along the southeast side of the City ("Reach 3, Phase 2B" of the project) is not expected to be completed

until 2026 or early 2027. An extension is necessary so the City of Marysville can proceed with infill housing and redevelopment projects that are already underway.

According to the Author

The author asserts, "the extension is essential to prevent negative impacts on transportation and infrastructure in the Greater Sacramento Region."

Arguments in Support

The City of Sacramento is a co-sponsor of this bill and argues that it is necessary because there have been unforeseen delays in the completion of some levee projects to achieve urban level of flood protection for the areas specified in this bill. The City of Sacramento asserts that "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."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, this bill has the following fiscal impact:

This bill could result in higher liability exposure for the state, possibly in the millions of dollars (General Fund). This 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 county 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.

VOTES

SENATE FLOOR: 34-0-6

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Hurtado, Jones, Laird, Limón, McGuire, McNeerney, Menjivar, Niello, Ochoa Bogh, Pérez, Richardson, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Alvarado-Gil, Cervantes, Grove, Padilla, Reyes, Rubio

ASM WATER, PARKS, AND WILDLIFE: 11-0-2

YES: Papan, Jeff Gonzalez, Ávila Farías, Bennett, Boerner, Caloza, Hart, Macedo, Celeste Rodriguez, Rogers, Tangipa

ABS, ABST OR NV: Alvarez, Bains

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache, Ta, Tangipa

UPDATED

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