SENATE COMMITTEE ON APPROPRIATIONS
Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 872 (McNerney) - Delta Levees and Canal Subsidence Fund

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Urgency: No
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Policy Vote: E.Q. 5 - 0, N.R. & W. 7 - 0
Mandate: No
Consultant: Ashley Ames

Bill Summary: This bill would establish the Delta Levees and Canal Subsidence Fund (Fund) and, upon appropriation, would require the Secretary of the California Natural Resources Agency (CNRA) to allocate from the fund, through the 2046-47 fiscal year, $150 million annually to the Department of Water Resources (DWR) for supporting capital improvements to restore the original design water conveyance capacity for state water conveyance systems impacted by land subsidence and $150 million annually to the Sacramento-San Joaquin Delta Conservancy (Conservancy) for projects in the Sacramento-San Joaquin Delta or Suisun Marsh to improve existing levees, as specified.

Fiscal Impact:

- Unknown but significant cost pressures, up to the low hundreds of millions of dollars annually (various funds), to provide funds for deposit into the newly created Delta Levees and Canal Subsidence Fund in order to be allocated pursuant to the provisions of this bill. SB 872 requires CNRA to allocate up to $300 million annually, contingent upon an appropriation. Some of these monies may come from sources other than state funds, such as private or federal funds.
- Implementation and administration costs for CNRA, DWR, the Conservancy, and other state entities would be dependent upon actual amounts allocated in any given year, and would likely vary significantly across departments and fiscal years.
    - DWR has existing State Water Project staff who are already doing some of the subsidence work identified by the bill and therefore DWR anticipates no additional costs to implement that portion of the bill.
    - DWR operates two local assistant programs that support work on levees of the Delta – the Delta Levee Maintenance Subventions Program and the Delta Special Projects Program – that currently receive between $12 million and $15 million annually and are supported by approximately 10 staff. Based on current program data, it is estimated that each doubling of grant monies would call for an increase of approximately 5 staff. Actual staffing needs and associated costs would depend on amounts allocated.
    - The Conservancy estimates that in order to implement a new program it would need funding allocated across several key functions. Of the total amount allocated, the Conservancy estimates it would need approximately five percent to support program delivery, including contract management, communications, budgeting, and accounting. An additional five percent would be dedicated to planning and monitoring activities, such as grant and contract management. Lastly, the Conservancy estimates that about 10 percent would

fund technical assistance, provided by both internal staff and external consultants. The Conservancy notes that the scope and cost of technical assistance would vary depending on the type of expertise required and the location of the work.

- The Delta Stewardship Council estimates, at a minimum, ongoing costs of approximately $194,000 for one position and one-time costs of about $274,000 spread over two for a limited term position to implement the provisions of this bill. These positions would support Council implementation of annual Delta Levees Investment Strategy prioritization, as extended to apply to both DWR and the Delta Conservancy. Although the Delta Levees Investment Strategy is an existing program, it has historically applied to a considerably smaller total amount of annual levee expenditures than what is proposed in the bill.

- Unknown costs of up to the low hundreds of thousands of dollars once every five years for CNRA to prepare and provide the required report to the Legislature.

Background:

Sacramento-San Joaquin Delta. The Sacramento-San Joaquin Delta (Delta) is formed by the confluence of the Sacramento and San Joaquin rivers and covers about 1,150 square miles in Sacramento, San Joaquin, Contra Costa, Solano, and Yolo counties. The Delta comprises about 70 islands that have been created from what was historically tidal marshland through the construction of over 1,100 miles of levees. About three-fourths of the water flowing into the Delta comes from the Sacramento River. In addition, the Suisun Marsh, the San Francisco Bay, and the Pacific Ocean affect the Delta through the tides and the flow of saltwater.

Although the Delta is geographically located in one part of the state, it affects the rest of the state in four important ways. The Delta is (1) a biologically diverse ecosystem, (2) essential to the State Water Project (SWP), (3) a place with economic and cultural value to the state, and (4) an important infrastructure corridor. The Delta is the largest estuary on the west coast and contains a variety of habitat types for over 700 species of fish and wildlife. In addition, many of the state's native fish species migrate through the Delta. As a result, the Delta is important for maintaining biodiversity in California and the United States, and essential to the state's water system.

The State Water Project. Water supply in California does not naturally occur where demand is highest. Much of the state's precipitation occurs in the northern and eastern parts of the state, while much of the demand occurs in the south and on the western coast because of the locations of population centers and agricultural lands. As a result, two large water projects—the SWP and the federal Central Valley Project (CVP) — were built to store and transport water throughout the state. These projects store water in dams upstream of the Delta and use rivers to transport it to the Delta. The water then moves through the Delta's waterways to pumps in the southern part of the Delta, where the SWP and the CVP then pump, or "export," that water to the Central Valley, Southern California, and parts of the San Francisco Bay Area.

The SWP extends more than 705 miles. Of the contracted water supply, 70 percent goes to urban users and 30 percent to agricultural users. The project makes deliveries to two-thirds of California's population.

Delta levees. The Delta levees are essential for the protection from flooding of human life, property (e.g. buildings, equipment, and crops, among others), water quality, and wildlife habitat. While the Delta levees are mostly private, the State relies upon them to maintain the Delta in its current state as a water conveyance system for the SWP and the federal CVP.

The Delta levee maintenance subvention program, administered by DWR, was created by SB 541 in 1973 (Way, Chapter 717, Statutes of 1973). According to DWR's website, the program "provides funding on a cost-share basis to local levee maintaining agencies for rehabilitation and maintenance of levees in the Delta. The program … fund[s] levee work with the purpose of preserving the Delta's invaluable resources including highly productive agriculture, recreational assets, fisheries, and wildlife."

Subsidence issues. Subsidence is the sinking of land surface due to changes in the soil or sediment in the ground. Subsidence occurs for a variety of reasons such as groundwater pumping, oil extraction, and geologic processes. Subsidence is a growing issue in California that impacts our water infrastructure and the communities who rely on it.

According to a DWR fact sheet, subsidence impacts across the state can be grouped into three broad categories: (1) infrastructure, (2) flood control, and (3) groundwater wells. Infrastructure impacts include damage to roads, pipelines, bridges, and water canals. Examples of impacted infrastructure include the SWP and local irrigation projects. Flood control system impacts include the lowering of levees and loss of channel capacity to move water during storm events. These impacts are occurring primarily in the San Joaquin River and Tulare Lake hydrologic regions. Subsidence can worsen the risk of flooding over time, damage groundwater well casings, and render some wells unusable.

As discussed above, large-scale canals deliver water to vast areas of the Central Valley and Southern California. Projects like the SWP deliver millions of acre-feet of water to urban and agricultural users to grow crops and use in their homes and businesses through a system of gravity canals, pumps, and control structures. When the land sinks along these canals, they lose their ability to move water and the canal structures are put at risk.

In recent decades, groundwater pumping near canals in the San Joaquin Valley has caused the land to sink and reduced the effectiveness of the canals to deliver water. In response, DWR established the California Aqueduct Subsidence Program. This program monitors subsidence and has released a series of reports documenting subsidence impacts and potential future impacts. According to the findings from the most recent supplemental report published in March 2019, subsidence is an ongoing significant problem and, together with climate change, will diminish the SWP's future water deliveries.

Sacramento-San Joaquin Delta Conservancy (Conservancy). According to the Conservancy's website, it is "a primary state agency in the implementation of ecosystem

restoration in the Delta. [It] support[s] efforts that advance environmental protection and the economic well-being of Delta residents. The Conservancy collaborates and cooperates with local communities and other parties to preserve, protect, and restore the natural resources, economy, and agriculture in the Sacramento-San Joaquin Delta and Suisun Marsh." The Conservancy's primary program areas are: (1) ecological restoration and climate adaptation, (2) Delta working lands, (3) community programs, and (4) education and enrichment.

Federal Funds. On March 17, 2026, the Interior Department announced that California would receive $540 million for HR 1, the spending bill passed by Congress in the Summer 2025. The $540 million will be split up as follows:

- $235 million for the Delta-Mendota Canal;
- $200 million for Fiant-Kern Canal; and
- $50 million for San Luis Canal.

These moneys are intended to help repair the subsidence issues of these canals.

Proposed Law: This bill would:

1. Create the Delta Levees and Canal Subsidence Fund (Fund) and makes moneys deposited into the fund available to the Secretary of the California Natural Resources Agency (Secretary) for specific purposes.
    a. Make moneys in the Fund available upon appropriation, except that nonstate funds are continuously appropriated without regard to fiscal year.
    b. Authorize the Secretary to seek out, and authorize the Fund to accept, state moneys or any bond funds for these purposes.
    c. Authorize the Fund to accept moneys from nonstate sources, including, but not limited to, federal and private moneys for these purposes.
    d. Authorize the Secretary to establish accounts within the Fund.
2. Require the Secretary to allocate moneys in the Fund as follows:
    a. $150,000,000 annually through the 2046-47 fiscal year, subject to funding availability, to DWR for the purpose of supporting capital improvements to restore the original design water conveyance capacity for state water conveyance systems impacted operationally by land subsidence.
    b. $150,000,000 annually through the 2046-47 fiscal year, subject to funding availability, to the Conservancy for projects in the Sacramento-San Joaquin Delta or Suisun Marsh to improve existing levees, including multibenefit levee projects that protect, enhance, or restore habitat, and improve water quality.

3. Require the Secretary, no later than January 1, 2032, and by January 1 every 5 years thereafter, to report to the Legislature on expenditures, as provided.

4. Require DWR to prioritize projects based on the volume of water capacity they can restore to the state water system and provide priority to projects where the surrounding groundwater basin is implementing best management practices aligned with the goals of the Sustainable Groundwater Management Act to manage land subsidence, as determined by DWR.

    a. Authorize DWR to adopt guidelines to implement these provisions and provide that the Administrative Procedure Act does not apply to the adoption of guidelines by DWR. DWR would be required to provide an opportunity for public comment and at least one public workshop.

5. Provide that projects may include, but are not limited to, projects to address subsidence alongside levees and the construction of seepage and stability berms on levees to correct underseepage, through-seepage, or structural instability.

6. Require the Conservancy to prioritize projects that improve the sustainability of local or state water supplies, and projects that improve instream, riparian, flood plain, and wetland habitat.

7. Authorize DWR and the Conservancy to adopt guidelines to implement these provisions that would not be subject to the Administrative Procedure Act. Require DWR and the Conservancy to provide an opportunity for public comment and at least one public workshop before adopting or revising the guidelines or other standards.

    a. Authorize DWR and the Conservancy to impose additional requirements on projects to meet the conditions of the funding source, as provided.

8. Require the Conservancy, before expending funds for any project, to prepare an annual spending plan that shall be approved by the governing board of the Conservancy that details the projects the conservancy intends to fund in that fiscal year.

    a. Require the conservancy to publish the spending plan on its internet website, allow at least 45 days for public comment on the spending plan, and hold at least one community meeting on the spending plan before it is approved by the board.

9. Make findings and declarations relating to subsidence and its impact on the State Water Project and relating to the need for levee maintenance to protect the Delta and its residences, businesses, agricultural lands, tribal cultural sites, and infrastructure.

Related Legislation:

SB 890 (Nielson and Borgeas, 2022) would have established the Water Storage and Conveyance Fund to help expand and restore water conveyance and storage capacity throughout California, specifically projects that support subsidence repair and reservoir

storage costs. The bill would have required DWR to expend from the fund specified amounts for grants to restore capacity of the Friant-Kern Canal, Delta-Mendota Canal, San Luis Field Division of the California Aqueduct, and the San Joaquin Division of the California Aqueduct, and funding for the construction of the Sites Reservoir. This bill failed passage in policy committee.

SB 1253 (Melendez, Chapter 195, Statutes of 2022) requires the Governor's 5-year infrastructure plan, submitted in conjunction with the Governor's Budget, to set out infrastructure priorities relating to specified flood prevention and maintenance projects.

SB 854 (Budget and Fiscal Review Committee, Chapter 51, Statutes of 2018) made various changes to the Delta Levee Subventions program and deleted the repeal date of the program, making the program operational indefinitely.

AB 732 (Frazier, 2017) would have extended the July 1, 2018, sunset date for the Delta Levee Subventions program by two years, until July 1, 2020. Specifically, AB 732 would have maintained the state's 75% maximum share for Delta levee maintenance costs in excess of $1,000 per mile until July 1, 2020. This bill was on the suspense file in this committee.

SB 554 (Wolk, 2016) would have extended the Delta Levee Subventions program by two years, until July 1, 2020. This bill was vetoed by Governor Brown.

Staff Comments:

Who pays? Traditionally water projects, such as the SWP, have been funded consistent with the beneficiaries pay principle: the concept that those directly benefiting from a project should fund the project. This principle was first articulated in the CALFED Bay-Delta Program Record of Decision, published August 28, 2000. One aspect of this principle is that those who would pay would weigh their share of the cost of the project to the cost of alternate methods of getting those same benefits.

For a canal project, the beneficiaries would be those agencies that received water via the canal and the benefit would be the additional water gained. In deciding whether to participate in the project, each beneficiary would weigh the net cost of increased capacity and the gain of additional water against getting that additional water through water conservation, recycled water, or some other alternate source.

Among other things, the beneficiaries pay principle helps ensure that the project is properly sized and helps lead to the most economically efficient outcome. This efficient outcome is undermined if there is funding from some other source besides the beneficiaries; e.g., a subsidy of some sort.

Additionally, beneficiaries pay principle ensures people do not have to contribute to a project that does not directly benefit them.

However, there is some precedent of the Legislature allocating money to address subsidence issues along the SWP. Last year, the Legislature appropriated $2 million from the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Fund (Proposition 4, Prop. 4) for subsidence repair projects related to existing conveyance projects (SB 105 (Wiener), Chapter 104, Statutes of 2025).

Whether a particular project is consistent with this principle is dependent on the specifics of the project itself. As the bill moves through the legislative process, the author may wish to consider whether a project funded by the Fund could potentially violate the beneficiaries pay principle and consider ways to ensure that projects funded by the Fund do not provide a non-public benefit and violate this principle.

Funding source. SB 872 does not identify a specific funding source, but instead would allow for moneys from different sources be deposited into one fund.

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