

SENATE THIRD READING
SB 872 (McNerney)
As Amended August 13, 2026
Majority vote

SUMMARY

Establishes the Delta Levees and Canal Subsidence Fund (Delta and Canal Fund) in the State Treasury to provide funding for capital projects to restore the design capacity of the State Water Project (SWP) and improve existing levees in the Sacramento-San Joaquin Delta (Delta).

Major Provisions

- 1) Establishes the Delta and Canal Fund in the State Treasury to provide funds for capital projects to restore the design capacity of SWP and improve existing levees in the Delta.
- 2) Provides that the Delta and Canal Fund may accept moneys from non-state sources, including from federal and private sources.
- 3) Provides that moneys in the Delta and Canal Fund are continuously appropriated for the purposes of this bill.
- 4) Provides that funding the Department of Water Resources (DWR) receives from the Delta and Canal Fund for water conveyance shall support capital improvements to restore the original design water conveyance capacity for state water conveyance systems impacted operationally by land subsidence.
 - a) Provides that DWR may adopt program guidelines when disbursing funds received from the Delta and Canal Fund for water conveyance.
 - b) Provides that the adoption of program guidelines by DWR shall not be subject to the Administrative Procedures Act (APA); however, requires DWR to provide opportunity for public comment and hold at least one public workshop before adopting or revising program guidelines.
- 5) Provides that funding DWR receives from the Delta and Canal Fund for Delta levees shall be for projects consistent with the Delta Special Flood Control Projects program, the Delta Levee Maintenance Subventions programs, and other projects in the Delta or Suisun Marsh to improve existing levees, including multibenefit projects.
 - a) Requires DWR to prioritize projects consistent with the Delta Levees Investment Strategy (DLIS).
 - b) Provides that DWR may adopt program guidelines when disbursing funds received from the Delta and Canal Fund for Delta levees.
 - c) Provides the adoption of program guidelines by DWR shall not be subject to APA; however, requires DWR to provide opportunity for public comment and hold at least one public workshop before adopting or revising program guidelines.

- d) Requires the Delta Conservancy to convene a working group of specified Delta community members to develop a list of recommended projects to inform DWR's distribution of funds available from the Delta and Canal Fund. The list of projects must be approved by the Delta Conservancy's board and be consistent with DLIS.
 - e) Requires that at least 15% of the funding DWR receives from the Delta and Canal Fund for Delta levees must go to projects recommended by the Delta Conservancy's working group.
- 6) Requires DWR to waive the local agency cost share requirement for the Delta Levees Maintenance Subventions Program if a local agency demonstrates economic hardship and the project addresses a threat to life, property, water supply, or habitat.

COMMENTS

The Delta lies at the confluence of the Sacramento and San Joaquin Rivers, adjacent to San Pablo Bay. Freshwater flows from these rivers and other local streams meet seawater in numerous waterways, creating a rich and diverse landscape and ecosystem. While most of the vast expanses of tule marsh that once characterized the Delta have been converted to agricultural uses, remnant natural and managed marshes still support a variety of native and introduced fish, wildlife, and waterfowl. The Delta is also an infrastructure hub laced with highways, railroads, aqueducts, oil and gas pipelines, powerlines, and other important infrastructure, including serving as a key component of California's major water projects, SWP and the Central Valley Project.

A defining feature of the Delta is its 1,100 miles of levees that have facilitated reclamation and development of the islands they protect. However, unlike typical river levees that are stressed by high water during floods, Delta levees constantly have water against them and must continuously withstand the pressures and erosive forces of river flows, tides, and wind waves. Many of these levees were built over 150 years ago with readily available borrow material from adjacent lands or channels and are underlain with low strength/stability organic peat soil and alluvial sands. Current and future threats to the integrity of Delta levees include land subsidence, climate change, and sea level rise.

Through its Delta levee programs, DWR plays a key role in protecting and enhancing the Delta, addressing the need for investments in flood risk management, and prioritizing the maintenance, repair, and improvements of the levees that are essential to the Delta's current function and its resilience moving forward. DWR has invested over \$865 million to improve Delta levees through its programs, including the Delta Levees Maintenance Subventions program, Delta Levees Special Flood Control Projects program, and the Delta Ecosystem Enhancement section.

DLIS is a regulation adopted by the Delta Stewardship Council (DSC) that requires DWR to prioritize state investment in Delta levees. DLIS is based on a decision support tool that uses various metrics to assess risks and that assigns a priority of "very high," "high," or "other" to each island or tract within the legal boundaries of the Delta. Per the regulation, DWR must expend public funds on "very high" levees before it expends funds on other priority levees. DWR can deviate from this rule, but it must document the rationale for each exception in its annual report to DSC on investments in Delta levees.

South of the Delta, the California Aqueduct, a key feature of SWP, moves water from Northern California to Southern California. It is a concrete-lined canal that winds its way through the Central Valley, moving water from the Clifton Court Forebay in the Delta down to Lake Perris, SWP's southernmost reservoir. Water travels by gravity until it is lifted by pumping plants and then continues its journey south by gravity until the next pumping plant.

The California Aqueduct and some other water conveyance canals are unable to move as much water as they were designed to carry due to land subsidence. Land subsidence is the sinking of land due to various factors, including the de-watering of sediments in an aquifer due to excessive groundwater pumping (i.e., overdraft) and oxidation of soils. According to DWR's *Best Management Practices for Land Subsidence* (2026):

Aside from impacting the structure of the aquifer itself, subsidence can also significantly impact infrastructure, including water conveyance facilities, pipelines, levees, building foundations, railways, highways, well casings, and bridges. Subsidence from groundwater pumping has severely impacted land surfaces and infrastructure in parts of California. Rates of subsidence and its associated impacts have increased in some areas of California due to unsustainable groundwater pumping. The effects are costing Californians hundreds of millions of dollars annually in damage repairs, reducing water supply reliability, and jeopardizing public safety. It is imperative that existing subsidence is minimized as quickly as possible and that the emergence of new subsiding areas is avoided.

DWR monitors the impacts of land subsidence on the capacity of the California Aqueduct; in a recent analysis, DWR estimates that "under 2043 climate conditions, projected subsidence would cause reductions in SWP deliveries by 84 percent." Land subsidence primarily caused by groundwater overdraft has been occurring in the San Joaquin Valley since at least the 1920s. During construction of the California Aqueduct in the 1960s, 20 to 30 feet of subsidence had already occurred. While the situation stabilized for a few decades following construction, there has been an alarming increase in subsidence in recent decades. In January 2026, DWR estimated that restoring the capacity lost in the California Aqueduct and San Luis Canal (a joint federal-state water conveyance facility) due to land subsidence will cost nearly \$4 billion.

According to the Author

"The [Delta] and [SWP] together make up California's primary water source, providing freshwater supplies to 27 million people, businesses, and farms in the Central Valley, the Bay Area, and Southern California. But the Delta's levees and the SWP's water canals are in desperate need of repair. Many of the Delta's aging levees are at risk of collapse, threatening the region with catastrophic flooding. And the SWP's canals are being seriously impacted by sinking land, imperiling up to 80% of the system's water supplies." The author argues that this bill will protect California's main water system by directing funding to essential levee repairs in the Delta and shoring up SWP's canals impacted by subsidence.

Arguments in Support

Restore the Delta (RTD) supports this bill and argues that it dedicates funding to two statewide priorities: 1) maintaining and improving Delta levees; and 2) addressing land subsidence impacts to the California Aqueduct. Regarding Delta levees, RTD notes that many are at risk of failure today. "These levees were constructed in the late 1800s, and do not currently meet the 200-year flood standard. Climate change places additional stress on Delta levees, impacted by increasing droughts, extreme precipitation events, earlier snowmelt, and sea level rise. As the

levees continue to age in the face of climate change, there is an increasing risk of levee breach or boils. In 2025 alone, there were three near-levee breaches." By addressing these two priorities, RTD contends this bill is "contributing to a shared and coordinated investment to protect Delta communities and the economy more broadly from flood risk, and to avoid the further degradation of state water conveyance infrastructure."

Arguments in Opposition

None on file.

FISCAL COMMENTS

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

- 1) Cost pressure on DWR's subventions program of an unknown but potentially significant amount (General Fund, Delta and Canal Fund, other special fund, or bond funds) to reimburse any local cost share DWR waives pursuant to authority provided by this bill. Under DWR's subventions program, local agencies are responsible for the first \$1,000 to \$2,500 per levee mile and the subventions program reimburses up to 75% of a local agency's eligible costs. For reference, in fiscal year (FY) 2023-24, 71 local levee maintaining agencies participated in the subventions program, and DWR provided about \$14.8 million in reimbursements. Proposition 4 (the climate bond) provides \$150 million to the subventions program.
- 2) Ongoing cost pressure of an unknown but significant amount, likely in the hundreds of millions of dollars annually, to provide funding for the Delta and Canal Fund (General Fund, special fund such as the Greenhouse Gas Reduction Fund, bond funds, federal funds, or private funds). For context, prior to recent amendments, the bill required the Natural Resources Agency (CNRA) to allocate up to \$300 million annually for the Delta and Canal Fund.

According to DWR, the subventions and special projects programs have received around \$30 million in annual state funding. Since the subventions program began in 1973 followed by the special projects program in 1988, DWR has provided more than \$865 million in grants to aid local levee-maintaining agencies through these programs. Proposition 4 (in addition to the \$150 million for the subventions program) allocates \$150 million for projects in the Delta to improve existing levees to increase flood protection and improve climate resiliency.

- 3) The Delta Conservancy estimates costs of \$420,000 in FY 2027-28 for one full-time position for one year as well as some one-time costs followed by ongoing annual costs of \$185,000 for one-half of a permanent position (Delta and Canal Fund or General Fund). Workload includes convening the working group, establishing and working with an advisory group to develop and publish a recommended list of levee projects for funding, holding community meetings, and conducting stakeholder engagement.
- 4) Increased staffing costs of an unknown amount to DWR (Delta and Canal Fund or General Fund). DWR has 10 staff who currently work on DWR's Delta levee programs, and DWR estimates that each doubling of funding for the programs would increase staff needs by 50%. So, an increase to \$60 million annually would require approximately 15 staff and an increase to \$120 million would require close to 23 staff.

- 5) Ongoing annual costs of an unknown amount, ranging from minor and absorbable to the low hundreds of thousands of dollars, for CNRA to administer the Delta and Canal Fund, allocate moneys based on need and seismic risk assessment, and report to the Legislature every five years on Delta and Canal Fund expenditures and public benefits (Delta and Canal Fund or General Fund).
- 6) DSC estimates ongoing annual General Fund costs of about \$194,000 for one water resource engineer (or similar position) to implement and update the DLIS and its prioritization and reporting requirements commensurate with any increase in Delta levees funding resulting from the creation of the Delta and Canal Fund.

VOTES

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Niello

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

YES: Papan, Jeff Gonzalez, Alanis, Alvarez, Ávila Farías, Bennett, Boerner, Caloza, Hadwick, Hart, Rogers

ABS, ABST OR NV: Bains, Celeste Rodriguez

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Arambula, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

ABS, ABST OR NV: Hoover, Dixon, Ta, Tangipa

UPDATED

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