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An act to amend Section 12987.5 of, and to amend and repeal Section 12986 of, the Water Code, relating to water.



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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12986 of the Water Code, as amended by Section 3 of Chapter 549 of the Statutes of 2012, is amended to read:

12986. (a) ~~It is the intent of the Legislature to~~ The department, upon appropriation by the Legislature, shall reimburse an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:

(1) ~~No costs incurred shall~~ Costs incurred shall not be reimbursed if the entire cost incurred per mile of project or nonproject levee is ~~one thousand dollars (\$1,000) or less, either of the following:~~

(A) Two thousand five hundred dollars (\$2,500) or less for a project or nonproject levee in an urban area.

(B) One thousand dollars (\$1,000) or less for a project or nonproject levee in a rural area.

(2) Not more than 75 percent of any costs incurred in excess of ~~one thousand dollars (\$1,000)~~ the amount per mile of project or nonproject levee specified in paragraph (1) shall be reimbursed.

~~(3) (A) As part of the project plans approved by the board, the department shall require the local agency or an independent financial consultant to provide information regarding the agency's ability to pay for the cost of levee maintenance or improvement. Based on that information, the department may require the local agency or an independent financial consultant to prepare a comprehensive study on the agency's ability to pay.~~

~~(B) The information or comprehensive study of the agency's ability to pay~~

(3) In addition to project plans approved by the board, the department shall require the local agency to provide information to the department that may include, but is not limited to, a detailed engineer's report prepared pursuant to subdivision (b) of Section 4 of Article XIII D of the California Constitution, audited financial statements, or an assessment commissioners' report. The information provided to the department shall be the basis for determining the maximum allowable reimbursement eligible under this part. Nothing in this paragraph shall be interpreted to increase the maximum reimbursement allowed under paragraph (2).

(4) Reimbursements made to the local agency in excess of the maximum allowable reimbursement shall be returned to the department.

~~(5) The department may recover, retroactively, excess reimbursements paid to the local agency from any time after January 1, 1997, based on an updated study of the agency's ability to pay.~~

~~(6)~~

(5) All final costs allocated or reimbursed under a plan shall be approved by the Central Valley Flood Protection Board for project and nonproject levee work.

~~(7)~~

(6) Costs incurred pursuant to this part that are eligible for reimbursement include construction costs and associated engineering services, financial or economic analyses, environmental costs, mitigation costs, and habitat improvement costs.



(b) Upon completion of its evaluation pursuant to Sections 139.2 and 139.4, by January 1, 2008, the department shall recommend to the Legislature and the Governor priorities for funding under this section.

(c) Reimbursements made pursuant to this section shall reflect the priorities of, and be consistent with, the Delta Plan established pursuant to Chapter 1 (commencing with Section 85300) of Part 4 of Division 35.

~~(d) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.~~

(d) For the purposes of this section, the following definitions apply:

(1) "Rural area" means an area that is not an urban area.

(2) "Urban area" means an area in which 10 percent or more of the land area within the project area is used for residential use.

SEC. 2. Section 12986 of the Water Code, as amended by Section 2 of Chapter 549 of the Statutes of 2012, is repealed.

~~12986. (a) It is the intent of the Legislature to reimburse from the General Fund an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:~~

~~(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of levee is one thousand dollars (\$1,000) or less.~~

~~(2) Fifty percent of any costs incurred in excess of one thousand dollars (\$1,000) per mile of levee shall be reimbursed.~~

~~(3) The maximum total reimbursement from the General Fund shall not exceed two million dollars (\$2,000,000) annually.~~

~~(b) This section shall become operative on July 1, 2018.~~

SEC. 3. Section 12987.5 of the Water Code is amended to read:

12987.5. (a) In an agreement entered into under Section 12987, the board may provide for an advance to the applicant in an amount not to exceed 75 percent of the estimated state share. The agreement shall provide that no advance shall be made until the applicant has incurred costs averaging one thousand dollars (\$1,000) per mile of levee.

(b) Advances made under subdivision (a) shall be subtracted from amounts to be reimbursed after the work has been performed. If the department finds that work has not been satisfactorily performed or where advances made actually exceed reimbursable costs, the local agency shall promptly remit to the state all amounts advanced in excess of reimbursable costs. If advances are sought, the board may require a bond to be posted to ensure the faithful performance of the work set forth in the agreement.

~~(c) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.~~



## LEGISLATIVE COUNSEL'S DIGEST

Bill No.  
as introduced, \_\_\_\_\_  
General Subject: Delta levee maintenance.

Existing law establishes a delta levee maintenance program pursuant to which a local agency may request reimbursement for costs incurred in connection with the maintenance or improvement of defined project or nonproject levees in the Sacramento-San Joaquin Delta. Existing law declares legislative intent to reimburse eligible local agencies under this program, until July 1, 2018, in an amount not to exceed 75% of those costs that are incurred in excess of \$1,000 per mile of levee. Existing law, until July 1, 2018, authorizes the Central Valley Flood Protection Board to provide funds to an eligible local agency under this program in the form of an advance in an amount that does not exceed 75% of the estimated state share.

This bill would instead require the Department of Water Resources, upon appropriation by the Legislature, to reimburse an eligible local agency for not more than 75% of any costs incurred per mile of project or nonproject levee if the entire cost incurred per mile is either \$2,500 or less for a levee in an urban area, as defined, or \$1,000 or less for a levee in a rural area. The bill would revise the information a local agency is required to provide to the department as the basis for determining the eligible reimbursement. The bill would eliminate the sunset on the authorization for the board to provide an advance of funds.

Existing law, on and after July 1, 2018, declares the intent of the Legislature to reimburse eligible local agencies under this program in an amount not to exceed 50% of those costs that are incurred in excess of \$1,000 per mile of levee in any year for the maintenance and improvement of levees. Existing law, on and after July 1, 2018, declares the intent of the Legislature that the maximum total reimbursement under the program shall not exceed \$2,000,000 annually.

This bill would repeal these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

