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Department of Utilities
Office of the Director

CITY OF SACRAMENTO
CALIFORNIA

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May 20, 2005

Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: SENATE BILL 347 RELATING TO FLOOD CONTROL

LOCATION AND DISTRICT: D-ALL

RECOMMENDATION:

Staff recommends that the Law and Legislation Committee support Senate Bill 347 relating to Flood Control.

CONTACT PERSON: Jessica Hess, Media and Communications Specialist, 808-8260

FOR COUNCIL MEETING OF: June 7, 2005

SUMMARY:

This report recommends that the Law and Legislation Committee support SB 347 authored by Senator Deborah Ortiz. The bill amends the existing Water Code so that the State will fund \$9 million of the flood damage reduction costs of the American River Flood Damage Reduction Project.

BACKGROUND INFORMATION:

The Water Code contains authorization for a flood damage reduction and environmental restoration project in the American River Watershed in Sacramento County. The project includes a new bridge at Folsom Reservoir at a cost of \$66 million, of which \$36 million is allocated to flood damage reduction and dam safety.



CITY OF SACRAMENTO
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Prior to SB 347, the State was committed to paying "its share portion of the cost." SB 347 commits the State to pay \$9 million of the cost of the flood damage and dam safety portion of the project.

FINANCIAL CONSIDERATIONS:

There are no financial implications of this report.

ENVIRONMENTAL DETERMINATION:

There are no environmental considerations related to this report.

POLICY CONSIDERATIONS:

Staff recommends support of SB 347 to enhance flood control along the American River and throughout the American River Watershed in Sacramento County. Support of this measure will help complete the project which will make Sacramento safer still from the risk of flooding along the American River.

ESBD CONSIDERATIONS:

Not applicable

Respectfully submitted,



Jessica Hess
Media and Communication Specialist

RECOMMENDATION APPROVED:



Ken Nishimoto
Assistant City Manager

APPROVED:



Gary A. Reents
Director of Utilities

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June 7, 2005

Honorable Deborah Ortiz
California State Senate
State Capitol
Sacramento, CA 95814

Subject: Support: Senate Bill 347 relating to Flood Control

Dear Senator Ortiz:

On behalf of the City of Sacramento, I am pleased to express the City's support of Senate Bill 347 relating to flood control. SB 347 will ensure funding of the flood damage reduction costs of the American River Flood Damage Reduction Project.

Thank you for introducing this important flood control legislation.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

CC: Senator Dave Cox
Assembly Member Dave Jones
Assembly Member Alan Nakanishi
Assembly Member Roger Neillo
Mayor Fargo and Members of the City Council

AMENDED IN SENATE APRIL 19, 2005

SENATE BILL

No. 347

Introduced by Senator Ortiz
(Principal coauthor: Senator Cox)
(Principal coauthors: Assembly Members Jones and Niello)
(Coauthors: Assembly Members Houston and Nakanishi)

February 16, 2005

An act to amend Section 12670.11 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 347, as amended, Ortiz. Flood control: American River flood damage reduction project.

(1) Existing law adopts and authorizes the project for flood damage reduction and environmental restoration in the American River watershed in Sacramento County at an estimated cost to the state of the sum that may be appropriated for state cooperation by statute, upon the recommendation and advice of the Department of Water Resources or the Reclamation Board.

This bill would provide that the project includes the ~~instruction~~ *construction* of a new bridge with an estimated cost of \$66,000,000, of which \$36,000,000 is allocated to flood damage reduction and dam safety. The bill would require the state to fund ~~its share~~ *\$9,000,000* of the \$36,000,000 that is allocated to flood damage reduction. The bill would require the City of Folsom to serve as the nonfederal sponsor of the bridge and to enter into a specified agreement with the department. By imposing requirements on the City of Folsom, the bill would impose a state-mandated local program.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.~~

~~Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 12670.11 of the Water Code is amended
2 to read:
3 12670.11. (a) The project for flood damage reduction and
4 environmental restoration in the American River watershed in
5 Sacramento County is adopted and authorized substantially in
6 accordance with Congressional approval and the final report of
7 the Chief of Engineers dated November 5, 2002, as authorized by
8 Section 128 of the Energy and Water Development
9 Appropriations Act, 2004 (P.L. 108-137), at an estimated cost to
10 the state of the sum that may be appropriated for state
11 cooperation by statute, upon the recommendation and advice of
12 the department or the Reclamation Board. The project includes
13 the construction of a new bridge with an estimated cost of
14 sixty-six million dollars (\$66,000,000), of which thirty-six
15 million dollars (\$36,000,000) is allocated to flood damage
16 reduction and dam safety. The state shall fund ~~its share~~ *nine*
17 *million dollars (\$9,000,000)* of the ~~portion of the~~ thirty-six
18 million dollars (\$36,000,000) that is allocated to flood damage
19 reduction.
20 (b) The Sacramento Area Flood Control Agency shall enter
21 into an agreement with the department pursuant to which the
22 agency agrees to indemnify and hold and save harmless the state,
23 its officers, agents, and employees for any and all liability for

1 damages that may arise out of the planning, design, construction,
2 operation, maintenance, repair, and rehabilitation of the project.

3 (c) The City of Folsom shall serve as the nonfederal sponsor
4 of the bridge authorized as part of the project and shall enter into
5 an agreement with the department to receive the state's
6 proportionate share of the cost of the bridge and to indemnify and
7 hold and save harmless the state, its officers, agents, and
8 employees for any and all liability for damages that may arise out
9 of the planning, design, construction, operation, maintenance,
10 repair, and rehabilitation of the bridge.

11 ~~SEC. 2. If the Commission on State Mandates determines that~~
12 ~~this act contains costs mandated by the state, reimbursement to~~
13 ~~local agencies and school districts for those costs shall be made~~
14 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
15 ~~4 of Title 2 of the Government Code.~~

16 *SEC. 2. No reimbursement is required by this act pursuant to*
17 *Section 6 of Article XIII B of the California Constitution because*
18 *the only costs that may be incurred by a local agency or school*
19 *district are the result of a program for which legislative authority*
20 *was requested by that local agency or school district, within the*
21 *meaning of Section 17556 of the Government Code and Section 6*
22 *of Article XIII B of the California Constitution.*

SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Sheila Kuehl, Chair
2005-2006 Regular Session

BILL NO: SB 347
AUTHOR: Ortiz
AMENDED: As Introduced
FISCAL: Yes HEARING DATE: March 29, 2005
URGENCY: No CONSULTANT: Dennis O'Connor
SUBJECT: Flood control: American River flood damage
reduction project

Summary: This bill would make explicit that Senate Bill 1280 (Ortiz) (Chapter 616, Statutes of 2004) authorized the construction of a permanent bridge to replace Folsom Dam Road.

Existing Law: Section 128 of the federal Energy and Water Development Appropriations Act, 2004, authorizes the Secretary of the Army to carry out a flood damage reduction and environmental restoration project in the American River Watershed. The principle feature of this project is to raise Folsom Dam by seven feet, thereby increasing the floodwater storage capacity of the Folsom Lake by 95,000 acre feet. In addition, the Act provides funds for construction of a permanent bridge to replace the Folsom Dam Road, which was closed due to security concerns.

Last year, the Legislature passed and the Governor signed SB 1280 (Ortiz). This bill added the project for flood damage reduction and environmental restoration in the American River Watershed to the list of flood projects authorized for state participation.

Proposed Law: This bill would make explicit that Senate Bill 1280 (Ortiz) (Chapter 616, Statutes of 2004) authorized the construction of a permanent bridge to replace Folsom Dam Road.

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Arguments in Support:

Clarifies Author's Intent. In an August 27th, 2004 letter to the Senate Daily Journal, Senator Ortiz described her intent with respect to the permanent bridge:

"SB 1280 states that the project is adopted 'substantially in accordance with congressional approval and the final report of the Chief of Engineers dated November 5, 2002' as set forth in Section 128 of the Energy and Water Development Appropriations Act, 2004 (P.L. 108-137).

"In the drafting of the bill these words were carefully chosen because the bridge component approved by Congress is broader than the bridge component described in the Chief's Report. Whereas the Chief's Report calls for a temporary bridge, the legislation approved by Congress directs the Army Corps of Engineers to construct a permanent bridge instead of a temporary bridge if supplemental funding is provided. The legislation then authorizes additional funding for construction of the permanent bridge.

"Given this context, my legislative intent was two-fold: to ensure active State participation in planning, designing, and constructing the permanent bridge, and to link the State's statutorily mandated financial contribution to the cost of the detour temporary bridge to the permanent bridge."

This bill makes that intent more explicit.

Arguments in Opposition: None

Comments:

Reclamation Board Was Uncertain. The Reclamation Board questioned whether the provisions of P.L. 108-137 and the legislative history of SB 1280 contained sufficient authority for the Reclamation Board to sponsor and participate financially in the construction of a permanent

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bridge across the American River just below Folsom Dam. This bill resolves the concerns of the Reclamation Board.

SUPPORT:

City of Folsom
The Gualco Group, Inc.

OPPOSITION:

None received

