

Assembly Bill No. 1788

CHAPTER 579

An act to amend Section 12585.7 of the Water Code, relating to water.

[Approved by Governor September 30, 2010. Filed with
Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1788, Yamada. Water development projects: state financial assistance.

Existing law provides for state cooperation with the federal government in the construction of specified flood control projects. For certain flood control projects authorized on or after January 1, 2002, or for which specified findings have been made on or after that date, the act requires the state to pay 50% of specified nonfederal costs. Existing law authorizes the state to pay up to 70% of those nonfederal costs upon the recommendation of the Department of Water Resources or the Central Valley Flood Protection Board if either entity determines that the project will advance one of several objectives. Those objectives include increasing the level of flood protection within the benefitted area of the project if that area has a median household income that is less than 120% of the poverty level, as defined by the Department of Finance.

This bill, instead, would authorize the state to pay up to 70% of those nonfederal costs upon the recommendation of the department or the board if either entity determines that the project will increase the level of flood protection for disadvantaged communities, as defined.

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

SECTION 1. Section 12585.7 of the Water Code is amended to read:

12585.7. Notwithstanding any other provision of this chapter, Chapter 2 (commencing with Section 12639), or Chapter 3 (commencing with Section 12800), the following requirements apply to projects authorized by the Legislature on or after January 1, 2002, and to small flood management projects authorized by Section 12750 for which the department makes the findings required by Section 12750.1 on or after January 1, 2002.

(a) The state shall pay 50 percent of the nonfederal capital costs required by Section 2213 of Title 33 of the United States Code.

(b) The state shall pay 50 percent of the nonfederal capital costs of fish, wildlife, and recreation mitigation.

(c) The state shall pay 50 percent of the nonfederal planning and engineering costs required by Section 2215(b) of Title 33 of the United

States Code and the nonfederal design costs required by Section 2215(c) of Title 33 of the United States Code.

(d) The state share of the nonfederal capital costs authorized in subdivisions (a), (b), and (c) may be increased by up to an additional 20 percent, to a maximum of 70 percent, upon the recommendation of the department or the Central Valley Flood Protection Board, if either entity determines that the project will result in a significant contribution to any of the following objectives:

(1) Protects, creates, enhances, or provides opportunities for enhancement of endangered species, riparian, aquatic, terrestrial, or other important habitats.

(2) Protects or enhances open space.

(3) Develops or enhances recreational opportunities that include, but shall not be limited to, picnic areas, foot and bike paths, and provides public access to all or nearly all of the project works, except those areas where public access would constitute a threat to public safety or habitat or would constitute a trespass on private property.

(4) Increases the level of flood protection for disadvantaged communities, as defined in Section 79505.5.

(5) Increases the level of flood protection for state transportation facilities or state water supply facilities.

(e) (1) The department or Central Valley Flood Protection Board shall include their recommendations with regard to increased cost sharing in the report prepared pursuant to subdivision (b) of Section 12582.7, if so prepared, or in any addendum to that report.

(2) The department or Central Valley Flood Protection Board shall determine whether the project will result in a significant contribution to the prescribed objectives based upon substantial evidence in the record. The department shall develop, by regulation pursuant to Section 12601, criteria for making the determinations as to whether projects will make significant contributions to the objectives described in subdivision (d).

(f) The state payments under subdivisions (a) and (b) are subject to Section 12585.1. State payments under subdivision (c) are not subject to Section 12585.1.