

## OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

## DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006.

- This act rebuilds and repairs California's most vulnerable flood control structures to protect homes and prevent loss of life from flood-related disasters, including levee failures, flash floods, and mudslides.
- Protects California's drinking water supply system by rebuilding delta levees that are vulnerable to earthquakes and storms.
- Authorizes a \$4.09 billion dollar bond act.
- Appropriates money from the General Fund to pay off bonds.

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## Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State cost of about \$8 billion over 30 years to pay off both the principal (\$4.1 billion) and interest (\$3.9 billion) costs on the bonds. Payments of about \$266 million per year.
- Reduction in local property tax revenues of potentially up to several million dollars annually.
- Additional unknown state and local government costs to operate or maintain properties or projects acquired or developed with these bond funds.

## FINAL VOTES CAST BY THE LEGISLATURE ON AB 140 (PROPOSITION 1E)

Senate: Ayes 36 Noes 1

Assembly: Ayes 62 Noes 9

## ANALYSIS BY THE LEGISLATIVE ANALYST

## BACKGROUND

**State Role.** Multiple agencies at each level of government (state, federal, and local) have some responsibilities for flood management. In addition, private entities own and operate some flood control facilities. The state carries out a number of programs designed to provide flood management. Some of these programs are operated directly by the state, while others provide grants to local agencies for similar purposes.

The state is primarily responsible for flood control in the Central Valley. As shown in Figure 1, the state Central Valley flood control system includes about 1,600 miles of levees, as well as

other flood control infrastructure such as overflow weirs and channels. The state directly funds the construction and repair of flood management structures such as levees, typically with a federal and local cost share. For approximately 80 percent of the levees in the Central Valley flood control system, the state has turned over the operations and maintenance to local governments (primarily local flood control districts), although the state retains ultimate responsibility for these levees and the system as a whole.

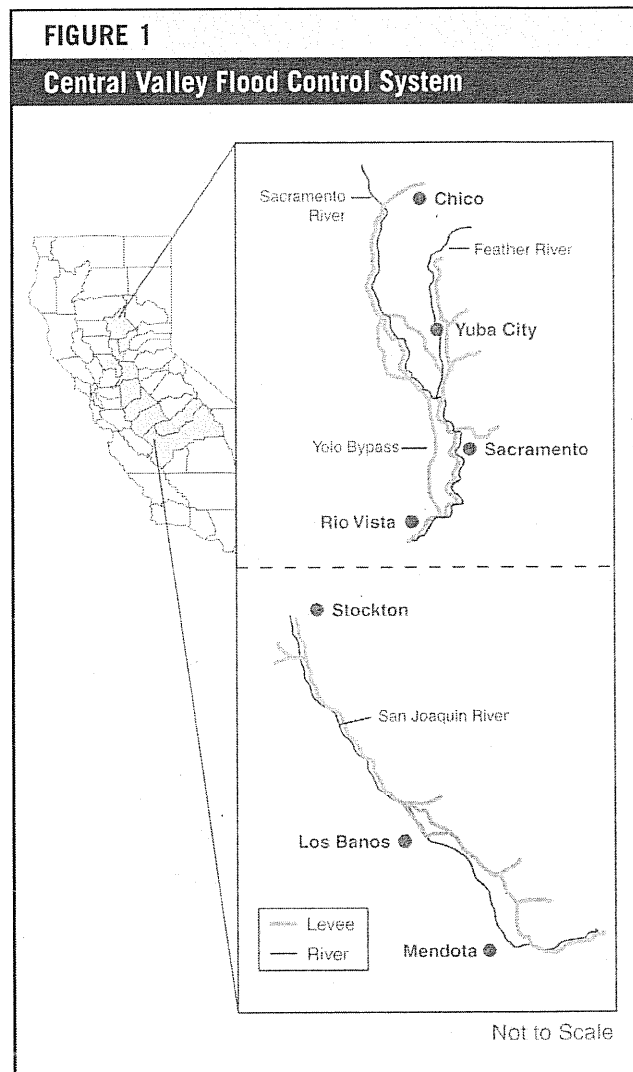
Outside the Central Valley system, the state's role in flood management generally consists of providing financial assistance to local governments

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for flood control projects located throughout the state. For example, the state has provided funding for the Santa Ana River Mainstem flood control project that spans Orange, Riverside, and San Bernardino Counties. In the Sacramento-San Joaquin River Delta region (Delta), as another example, the state has no oversight role with respect to local levee construction or maintenance (a majority of Delta levees—about 700 miles—are located outside the state system). Because a significant portion of the state's population depends on water supplies that come through the Delta, there is a state interest in the continued operation of the Delta levee system. Given this, the state has provided financial assistance over many years to local flood control districts in the Delta region to rehabilitate and maintain levees.

**Funding.** In general, state flood management programs have been funded from the General Fund, with some use of bond funds. Since 1996, the voters have authorized a number of state general obligation bonds, of which about \$400 million has been allocated specifically for flood management purposes. Most of these bond funds for flood management have already been spent.

State funding levels for flood management have varied substantially on a year-to-year basis, largely depending on the availability of General Fund and bond monies for this purpose. For example, since 2000–01, annual state funding for flood management has varied from a low of about \$60 million (2002–03) to a high of about \$270 million (2000–01). In addition to state flood management programs, local governments, including flood control districts and other public water agencies, operate their own flood management programs and projects. Funding for these local programs comes from various sources, including property assessments



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and, in some cases, financial assistance from the state.

A law passed earlier this year provides \$500 million from the General Fund for emergency levee repairs and other flood management-related costs.

The Department of Water Resources (DWR) has made rough estimates of the cost to repair and upgrade the Central Valley flood control system and levees in the Delta of between \$7 billion and \$12 billion.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

**PROPOSAL**

This measure authorizes the state to sell about \$4.1 billion in general obligation bonds for various flood management programs. (See “An Overview of State Bond Debt” on page 96 for basic information on state general obligation bonds.) Figure 2 summarizes the purposes for which the bond money would be available to be spent by DWR and for grants to local agencies. In order to spend these bond funds, the measure requires the Legislature to appropriate them in the annual budget act or another law.

Specifically, the bond includes about \$4.1 billion for various flood management activities, allocated as follows:

- **State Central Valley Flood Control System and Delta Levees—\$3 Billion.** To evaluate, repair, and restore existing levees in the state’s Central Valley flood control system; to improve or add facilities in order to increase flood protection for urban areas in the state’s Central Valley flood control system; and to reduce the risk of levee failure in the Delta region through grants to local agencies and direct spending by the state.
- **Flood Control Subventions—\$500 Million.** To provide funds to local governments for the state’s share of costs for locally sponsored, federally authorized flood control projects outside the Central Valley system.
- **Stormwater Flood Management—\$300 Million.** For grants to local agencies outside of the Central Valley system for projects to manage stormwater.
- **Statewide Flood Protection Corridors and Bypasses—\$290 Million.** To protect, create, and enhance flood protection corridors, including flood control bypasses and setback levees; as well as for floodplain mapping.

**FIGURE 2**

**Proposition 1E: Uses of Bond Funds**

	Amount (In Millions)
State Central Valley flood control system repairs and improvements; Delta levee repairs and maintenance.	\$3,000
Flood control subventions (local projects outside the Central Valley).	500
Stormwater flood management (grants for projects outside the Central Valley).	300
Flood protection corridors and bypasses; floodplain mapping.	290
<b>Total</b>	<b>\$4,090</b>

**FISCAL EFFECTS**

**Bond Costs.** The costs of these bonds would depend on interest rates in effect at the time they are sold and the time period over which they are repaid. The state would likely make principal and interest payments from the state’s General Fund over a period of about 30 years. If the bonds were sold at an average interest rate of 5 percent, the cost would be about \$8 billion to pay off both the principal (\$4.1 billion) and interest (\$3.9 billion). The average payment would be about \$266 million per year.

**Property Tax-Related Impacts.** The measure provides funds for land acquisition by the state for flood management, including the development of bypasses and setback levees. Under state law, property owned by government entities is exempt from property taxation. To the extent that this

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measure results in property being exempted from taxation due to acquisitions by governments, local governments would receive reduced property tax revenues. Because the measure does not specify what portion of the bond funds will be used for acquisitions, the impact on local property tax revenues statewide is unknown, but is potentially up to several million dollars annually.

**Operational Costs.** To the extent that bond funds are used by state and local governments to purchase property or develop a new flood control project, these governments would incur unknown additional costs to operate or maintain the properties or projects.

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# PROP DISASTER PREPAREDNESS AND FLOOD PREVENTION

## 1E BOND ACT OF 2006. ★ ★ ★

### ARGUMENT IN FAVOR OF PROPOSITION 1E

**YES ON PROPOSITION 1E: PROTECT AGAINST FLOODS, PREVENT OCEAN POLLUTION, SAFEGUARD CLEAN DRINKING WATER**

California continually faces natural disasters—from earthquakes and fires to floods and mudslides. Proposition 1E is critical to prepare for these natural disasters and ensure we always have enough clean water to meet our needs.

**YES ON 1E: PROTECT HOMES, PREVENT LOSS OF LIFE**

Our nation learned a tragic lesson from Hurricane Katrina—we cannot continue to neglect our unsafe levees and flood control systems. One catastrophic flood would impact the entire state and disrupt the supply of clean drinking water to major cities.

Proposition 1E expedites urgent projects to protect homes and lives across the state:

- Urgent repairs and essential improvements to levees and flood control facilities
- Increased flood protection for urban areas
- Evaluation and repair of the current flood control system

“Californians deserve to know that their homes and families are protected from flooding, caused by levee failure in the Central Valley, or flash flooding in Southern California or coastal areas. Proposition 1E is vital to the state’s ability to ensure flood safety throughout the state.”—Lester Snow, Director, California Department of Water Resources

**YES ON 1E: PROTECT OUR OCEANS AND OUR SUPPLY OF CLEAN, SAFE DRINKING WATER**

Outdated flood control systems can threaten drinking water supplies, pollute streams, and foul beaches.

- Some cities rely on water mains and sewers more than a century old that can fail at any time. Experts say that water pressure inside the pipes is often the only thing keeping them from collapsing.
- In 2001, sewer spills and overflows forced officials to issue over 2,000 beach closings and health advisories. Spills

and overflows are generally caused by overused and antiquated wastewater systems.

Proposition 1E helps ensure that clean water is available for all Californians all the time by providing funds to rebuild out-of-date systems to prevent pollution and safeguard water sources.

**YES ON 1E: STRICT ACCOUNTABILITY AND NO NEW TAXES**

Proposition 1E won’t raise taxes to pay for these important infrastructure improvements. By building safeguards now, with current revenues, we can limit the impact of disasters when they do hit. And, Prop. 1E includes annual audits and tough fiscal safeguards to ensure the money is spent wisely.

**YES ON 1E: PART OF A LONG-TERM PLAN TO REBUILD CALIFORNIA**

Proposition 1E is part of the Rebuild California Plan, which uses the taxes we’re already paying to build the roads, housing, schools, and water systems we need to sustain our economy and our quality of life for the long-term.

The Rebuild California Plan: YES ON 1A, 1B, 1C, 1D, and 1E

California’s population will reach 50 million in the next 20 years—twice what our current infrastructure was designed for—and it can’t be rebuilt overnight. That’s why we’ve got to start now.

To learn more about how this infrastructure plan will benefit you and your community, visit [www.ReadForYourself.org](http://www.ReadForYourself.org).

**YES ON 1E: Clean Water, Flood Protection, and Disaster Preparedness.**

**HENRY RENTERIA**, Director  
California Office of Emergency Services

**MICHAEL L. WARREN**, President  
California Fire Chiefs Association

**LINDA ADAMS**, Secretary  
California Environmental Protection Agency

### REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 1E

After reading Prop. 1E, it won’t surprise you to learn that the Legislature adopted it after 3 a.m. when they got tired of arguing. They couldn’t agree on a list of projects or even a list of priorities; they could only agree that **THEY WANT MORE OF YOUR MONEY** right away. How typical! That’s what this \$4,090,000,000.00 bond is all about: raising taxes to give Sacramento politicians a blank check based on vague promises that they won’t waste our money this time. It’s like giving a drunk one more drink for the drive home.

Our legislators have been ignoring public levees for years. Now, instead of allocating a small portion of our record-breaking revenues for levees, they want to borrow money for thirty years for repairs that will need to be repaired again long before this bond is paid off. What will we do then?

This is a **TAX INCREASE**. Taxpayers will be forced to spend over \$8,200,000,000 to pay back this bond with interest!

At recent prices, this proposal contains funding for about 25 miles of levees, but California has far more than 2,000 miles of levees to maintain. Since this measure does nothing to reform our crazy spending practices and policies, we might not even get 25 miles of repairs. What is worse, with politicians in charge of selecting the projects (not hydrologists, scientists, and engineers), funding will be based on political influence rather than critical need. This is a recipe for disaster.

Please Vote “NO” on 1E.

**THOMAS N. HUDSON**, Executive Director  
The California Taxpayer Protection Committee

## ARGUMENT AGAINST PROPOSITION 1E

We need strong levees and clean water, but Proposition 1E is the wrong solution. This measure is full of misguided priorities and doesn't have any controls on funds. The most important thing we can do is to make sure we have enough water for our growing population, but 1E doesn't spend a cent on that.

Prop. 1E sounds good, but it means higher taxes for projects that local and federal governments should already be doing.

—Proposition 1E won't provide "Clean Water" to drink:

California's population is expected to grow to fifty million people in the next decade. This will place an enormous strain on our water supply. However, this bond will not provide a single drop of drinking water for California's growing population. It will not build a single water storage reservoir or water treatment facility. Yet it will give hundreds of millions to private organizations to spend on their pet projects and lets them use these funds for their own "administrative costs."

—Benefits local urban projects:

Rural California loses under Proposition 1E. State taxpayers' money from these bonds will go to protecting cities and their water supplies. These communities and their local governments should be paying for their own water supply improvements. Local tax dollars should be used to fund these projects, not state funds.

—Federal responsibility:

Instead of putting the state in more debt to pay for these levee repair projects, our state should be demanding more

federal funding. This is a federal responsibility. California taxes are already high, and we shouldn't have to pay more taxes to protect ourselves because the federal government won't plan for disasters.

—Fiscally irresponsible:

By taking on what are really local and federal responsibilities, we are encouraging mismanagement from all levels of government. And, they will expect taxpayers to foot the bill down the road rather than refocusing their priorities.

—Californians must focus on our priorities:

While our economy is slowly recovering, approving Proposition 1E would be like taking out a loan to buy new patio furniture when you can't afford to pay your mortgage or rent. At the same time, this measure means less money for other important priorities like education, health care, or public safety.

The state can't take responsibility for every project in the state. These projects should be paid for by the local and federal agencies responsible for these public safety issues. If we don't make them reprioritize their spending, our children will continue to foot the bill for their short-sighted planning and mismanagement.

Proposition 1E is bad for families, bad for taxpayers, and bad for California. Vote NO on 1E.

**THOMAS N. HUDSON**, Executive Director  
The California Taxpayer Protection Committee

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## REBUTTAL TO ARGUMENT AGAINST PROPOSITION 1E

Proposition 1E is vital to California's disaster preparedness—protecting lives and water supplies. It is our responsibility to ensure that all Californians have access to safe, clean drinking water at all times. Yes on 1E does that without raising taxes, and it leverages additional federal and local funding.

### WE CANNOT AFFORD TO NEGLECT OUR WATER SUPPLY AND FLOOD PROTECTION SYSTEMS

If we wait for others to fix our unsafe levees and flood control systems, we are putting our homes, drinking water supplies, and children at risk in every corner of the state. By building safeguards now, we can limit the impact of disasters when they do hit. Yes on 1E provides:

- Increased flood protection for urban and rural areas, meaning a stable, clean water supply.
- Repaired and improved levees.
- Updated flood control systems—to prevent failures that can pollute our streams and oceans.

### FISCALLY RESPONSIBLE

Proposition 1E uses the taxes we are already paying to make these important infrastructure improvements. Utilizing

federal and local matching funds means we can complete more of these important projects in communities across the state. And, 1E has important accountability standards, including independent audits, to ensure money is spent wisely.

Proposition 1E is part of the Rebuild California Plan. It will provide the flood protection vital to sustaining our economy, protecting our supply of drinking water, and preserving our quality of life for the long term.

YES on 1E: Clean Water, Flood Protection, and Disaster Preparedness for Our Future.

**THOMAS A. NASSIF**, President  
Western Growers

**LINDA ADAMS**, Secretary  
California Environmental Protection Agency

**PETER SILVA**, Former Vice Chair  
State Water Resources Control Board

transferred to the State Allocation Board and may be apportioned by that board for the purposes of Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 of the Education Code.

(b) Any funds remaining after the transfer required under subdivision (a) that conform to the description set forth in that subdivision shall be transferred to the State Allocation Board and may be apportioned by that board for any of the purposes of Chapter 12.5 (commencing with Section 17070.10) of Part 10 of the Education Code.

## PROPOSITION 1E

This law proposed by Assembly Bill 140 of the 2005–2006 Regular Session (Chapter 33, Statutes of 2006) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the Public Resources Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

SECTION 1. Chapter 1.699 (commencing with Section 5096.800) is added to Division 5 of the Public Resources Code, to read:

#### CHAPTER 1.699. DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006

##### Article 1. General Provisions

5096.800. This chapter shall be known and may be cited as the *Disaster Preparedness and Flood Prevention Bond Act of 2006*.

##### Article 2. Definitions

5096.805. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

- (a) "Board" means the Reclamation Board or successor entity.
- (b) "Committee" means the Disaster Preparedness and Flood Prevention Bond Finance Committee, created by Section 5096.957.
- (c) "Delta" means the area of the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code.
- (d) "Department" means the Department of Water Resources.
- (e) "Facilities of the State Plan of Flood Control" means the levees, weirs, channels, and other features of the federal and state authorized flood control facilities located in the Sacramento and San Joaquin River drainage basin for which the board or the department has given the assurances of nonfederal cooperation to the United States required for the project, and those facilities identified in Section 8361 of the Water Code.
- (f) "Fund" means the Disaster Preparedness and Flood Prevention Bond Fund of 2006, created by Section 5096.806.
- (g) "Project levees" means the levees that are part of the facilities of the State Plan of Flood Control.
- (h) "Restoration" means the improvement of a physical structure or facility and, in the case of natural system and landscape features includes, but is not limited to, a project for the control of erosion, the control and elimination of exotic species, including prescribed burning, fuel hazard reduction, fencing out threats to existing or restored natural resources, road elimination, and other plant and wildlife habitat improvement to increase the natural system value of the property. A restoration project shall include the planning, monitoring, and reporting necessary to ensure successful implementation of the project objectives.
- (i) "State General Obligation Bond Law" means the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code).
- (j) "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350 of the Water Code, and of flood control projects in the Sacramento River and San Joaquin River watersheds

authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of the Water Code for which the board or the department has provided the assurances of nonfederal cooperation to the United States, which shall be updated by the department and compiled into a single document entitled "The State Plan of Flood Control."

(k) "Urban area" means any contiguous area in which more than 10,000 residents are protected by project levees.

##### Article 3. Disaster Preparedness and Flood Prevention Bond Fund of 2006

5096.806. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Disaster Preparedness and Flood Prevention Bond Fund of 2006, which is hereby created.

##### Article 4. Disaster Preparedness and Flood Prevention Program

5096.820. (a) The sum of four billion ninety million dollars (\$4,090,000,000) shall be available, upon appropriation therefor, for disaster preparedness and flood prevention projects pursuant to this article.

(b) In expending funds pursuant to this article, the Governor shall do all of the following:

(1) Secure the maximum feasible amounts of federal and local matching funds to fund disaster preparedness and flood prevention projects in order to ensure prudent and cost-effective use of these funds to the extent that this does not prohibit timely implementation of this article.

(2) Prioritize project selection and project design to achieve maximum public benefits from the use of these funds.

(3) In connection with the submission of the annual Governor's Budget, submit an annual Bond Expenditure Disaster Preparedness and Flood Prevention Plan that describes in detail the proposed expenditures of bond funds, the amount of federal appropriations and local funding obtained to fund disaster preparedness and flood prevention projects to match those expenditures, and an investment strategy to meet long-term flood protection needs and minimize state taxpayer liabilities from flooding.

5096.821. Three billion dollars (\$3,000,000,000) shall be available, upon appropriation to the department, for the following purposes:

(a) The evaluation, repair, rehabilitation, reconstruction, or replacement of levees, weirs, bypasses, and facilities of the State Plan of Flood Control by all of the following actions:

(1) Repairing erosion sites and removing sediment from channels or bypasses.

(2) Evaluating and repairing levees and any other facilities of the State Plan of Flood Control.

(3) Implementing mitigation measures for a project undertaken pursuant to this subdivision. The department may fund participation in a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code to facilitate projects authorized by this subdivision.

(b) Improving or adding facilities to the State Plan of Flood Control to increase levels of flood prevention for urban areas, including all related costs for mitigation and infrastructure relocation. Funds made available by this subdivision may be expended for state financial participation in federal and state authorized flood control projects, feasibility studies and design of federal flood damage reduction and related projects, and reservoir reoperation and groundwater flood storage projects. Not more than two hundred million dollars (\$200,000,000) may be expended on a single project, excluding authorized flood control improvements to Folsom Dam.

(c) (1) To reduce the risk of levee failure in the delta.

(2) The funds made available for the purpose specified in paragraph (1) shall be expended for both of the following purposes:

(A) Local assistance under the delta levee maintenance subventions program under Part 9 (commencing with Section 12980) of Division 6 of the Water Code, as that part may be amended.

(B) Special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6 of the Water Code, as that chapter may be amended.

5096.824. (a) Five hundred million dollars (\$500,000,000) shall

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# TEXT OF PROPOSED LAWS ★ ★ ★

be available, upon appropriation to the department, for payment for the state's share of the nonfederal costs, and related costs, of flood control and flood prevention projects authorized under any of the following:

(1) *The State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6 of the Water Code).*

(2) *The Flood Control Law of 1946 (Chapter 3 (commencing with Section 12800) of Part 6 of Division 6 of the Water Code).*

(3) *The California Watershed Protection and Flood Prevention Law (Chapter 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code).*

(b) *The costs described in subdivision (a) include costs incurred in connection with either of the following:*

(1) *The granting of credits or loans to local agencies, as applicable, pursuant to Sections 12585.3, 12585.4 of, subdivision (d) of Section 12585.5 of, and Sections 12866.3 and 12866.4 of, the Water Code.*

(2) *The implementation of Chapter 3.5 (commencing with Section 12840) of Part 6 of Division 6 of the Water Code.*

(c) *The funds made available by this section shall be allocated only to projects that are not part of the State Plan of Flood Control.*

5096.825. Two hundred ninety million dollars (\$290,000,000) shall be available, upon appropriation, for the protection, creation, and enhancement of flood protection corridors and bypasses through any of the following actions:

(a) *Acquiring easements and other interests in real property to protect or enhance flood protection corridors and bypasses while preserving or enhancing the agricultural use of the real property.*

(b) *Constructing new levees necessary for the establishment of a flood protection corridor or bypass.*

(c) *Setting back existing flood control levees, and in conjunction with undertaking those setbacks, strengthening or modifying existing levees and weirs.*

(d) *Relocating or flood proofing structures necessary for the establishment of a flood protection corridor.*

(e) *Acquiring interests in, or providing incentives for maintaining agricultural uses of, real property that is located in a flood plain that cannot reasonably be made safe from future flooding.*

(f) *Acquiring easements and other interests in real property to protect or enhance flood protection corridors while preserving or enhancing the wildlife value of the real property.*

(g) *Flood plain mapping and related activities, including both of the following:*

(1) *The development of flood hazard maps, including all necessary studies and surveys.*

(2) *Alluvial fan flood plain mapping.*

5096.827. Three hundred million dollars (\$300,000,000) shall be available, upon appropriation to the department, for grants for stormwater flood management projects that meet all of the following requirements:

(a) *Have a nonstate cost share of not less than 50 percent.*

(b) *Are not part of the State Plan of Flood Control.*

(c) *Are designed to manage stormwater runoff to reduce flood damage and where feasible, provide other benefits, including groundwater recharge, water quality improvement, and ecosystem restoration.*

(d) *Comply with applicable regional water quality control plans.*

(e) *Are consistent with any applicable integrated regional water management plan.*

5096.828. Funds provided by this article are only available for appropriation until July 1, 2016, and at that time the amount of indebtedness authorized by this chapter shall be reduced by the amount of funds provided by this article that have not been appropriated.

## Article 16. Program Expenditures

5096.953. The Secretary of the Resources Agency shall provide for an independent audit of expenditures pursuant to this chapter to ensure that all moneys are expended in accordance with the requirements of this chapter. The secretary shall publish a list of all program and project expenditures pursuant to this chapter not less than annually, in written

form, and shall post an electronic form of the list on the Resources Agency's Internet Web site.

## Article 17. Fiscal Provisions

5096.955. (a) Bonds in the total amount of four billion ninety million dollars (\$4,090,000,000), not including the amount of any refunding bonds issued in accordance with Section 5096.966, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute valid and binding obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) The Treasurer shall sell the bonds authorized by the committee pursuant to this section. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 of the Government Code.

5096.956. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law, and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

5096.957. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Disaster Preparedness and Flood Prevention Bond Finance Committee is hereby created. For the purposes of this chapter, the Disaster Preparedness and Flood Prevention Bond Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the department is designated the "board."

5096.958. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter to carry out this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

5096.959. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

5096.960. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum that is necessary to carry out Section 5096.963, appropriated without regard to fiscal years.

5096.961. The department may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. The department shall execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the department in accordance with this chapter.

5096.962. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds that



include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and for the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

5096.963. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, with interest at the rate earned by the money in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

5096.964. All money deposited in the fund that is derived from premium and accrued interest on bonds sold pursuant to this chapter shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

5096.965. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each program funded through this bond act.

5096.966. The bonds issued and sold pursuant to this chapter may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of the bonds under this chapter shall include approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

5096.967. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

## PROPOSITION 83

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Penal Code and amends sections of the Welfare and Institutions Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### SECTION 1. SHORT TITLE

This Act shall be known and may be cited as "The Sexual Predator Punishment and Control Act: Jessica's Law."

#### SEC. 2. FINDINGS AND DECLARATIONS

The People find and declare each of the following:

(a) The State of California currently places a high priority on maintaining public safety through a highly skilled and trained law enforcement as well as laws that deter and punish criminal behavior.

(b) Sex offenders have very high recidivism rates. According to a 1998 report by the U.S. Department of Justice, sex offenders are the least likely to be cured and the most likely to reoffend, and they prey on the most innocent members of our society. More than two-thirds of the victims of rape and sexual assault are under the age of 18. Sex offenders have a dramatically higher recidivism rate for their crimes than any other type of violent felon.

(c) Child pornography exploits children and robs them of their innocence. FBI studies have shown that pornography is very influential in the actions of sex offenders. Statistics show that 90% of the predators

who molest children have had some type of involvement with pornography. Predators often use child pornography to aid in their molestation.

(d) The universal use of the Internet has also ushered in an era of increased risk to our children by predators using this technology as a tool to lure children away from their homes and into dangerous situations. Therefore, to reflect society's disapproval of this type of activity, adequate penalties must be enacted to ensure predators cannot escape prosecution.

(e) With these changes, Californians will be in a better position to keep themselves, their children, and their communities safe from the threat posed by sex offenders.

(f) It is the intent of the People in enacting this measure to help Californians better protect themselves, their children, and their communities; it is not the intent of the People to embarrass or harass persons convicted of sex offenses.

(g) Californians have a right to know about the presence of sex offenders in their communities, near their schools, and around their children.

(h) California must also take additional steps to monitor sex offenders, to protect the public from them, and to provide adequate penalties for and safeguards against sex offenders, particularly those who prey on children. Existing laws that punish aggravated sexual assault, habitual sexual offenders, and child molesters must be strengthened and improved. In addition, existing laws that provide for the commitment and control of sexually violent predators must be strengthened and improved.

(i) Additional resources are necessary to adequately monitor and supervise sexual predators and offenders. It is vital that the lasting effects of the assault do not further victimize victims of sexual assault.

(j) Global Positioning System technology is an useful tool for monitoring sexual predators and other sex offenders and is a cost effective measure for parole supervision. It is critical to have close supervision of this class of criminals to monitor these offenders and prevent them from committing other crimes.

(k) California is the only state, of the number of states that have enacted laws allowing involuntary civil commitments for persons identified as sexually violent predators, which does not provide for indeterminate commitments. California automatically allows for a jury trial every two years irrespective of whether there is any evidence to suggest or prove that the committed person is no longer a sexually violent predator. As such, this act allows California to protect the civil rights of those persons committed as a sexually violent predator while at the same time protect society and the system from unnecessary or frivolous jury trial actions where there is no competent evidence to suggest a change in the committed person.

SEC. 3. Section 209 of the Penal Code is amended to read:

209. (a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away another person by any means whatsoever with intent to hold or detain, or who holds or detains, that person for ransom, reward or to commit extortion or to exact from another person any money or valuable thing, or any person who aids or abets any such act, is guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state prison for life without possibility of parole in cases in which any person subjected to any such act suffers death or bodily harm, or is intentionally confined in a manner which exposes that person to a substantial likelihood of death, or shall be punished by imprisonment in the state prison for life with the possibility of parole in cases where no such person suffers death or bodily harm.

(b)(1) Any person who kidnaps or carries away any individual to commit robbery, rape, spousal rape, oral copulation, sodomy, or ~~sexual penetration~~ in any violation of Section 264.1, 288, or 289, shall be punished by imprisonment in the state prison for life with *the* possibility of parole.

(2) This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases the risk of harm to the victim over and above that necessarily present in, the intended underlying offense.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

(d) Subdivision (b) shall not be construed to supersede or affect

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