

Reeb Government Relations, LLC

June 15, 2017

The Honorable Bob Hertzberg
Chairman, Senate Natural Resources & Water Committee
State Capitol, Room 4038
Sacramento, California 95814

RE: Assembly Bill No. 732—Support

Dear Senator Hertzberg:

I am writing on behalf of California Central Valley Flood Control Association (CCVFCA), to express support for AB 732 (Frazier), relating to delta levee maintenance.

Existing law establishes a delta levee maintenance program through which a local agency may request reimbursement for costs related to the maintenance or improvement of project or nonproject levees in the Sacramento-San Joaquin Delta. The program funds levee work with the purpose of preserving the Delta's invaluable resources including highly productive agriculture, recreational assets, fisheries, and wildlife. AB 732 would extend the current cost share formula and the authorization to advance funds to July 1, 2020, and would repeal other provisions of existing law.

There are about 1,115 miles of levees protecting 700,000 acres of lowland in the Delta. State highways, regional utility infrastructure, Federal Central Valley Project and State Water Project supplies, and legacy communities also are protected by levees. About one-third of the Delta levees (385 miles) are Project Levees which are part of an authorized federal flood control project of the Sacramento and San Joaquin River systems and eligible for Corps of Engineers rehabilitation. The State of California has provided assurances to the Federal government that these levees will be properly maintained. The majority of Delta levees, over 730 miles, are non-project (local) levees. Local levees were constructed, enlarged, and maintained over the last 130 years by local reclamation districts. In general, the levee work by these districts was financed by the owners of the lands within the levees.

The levee maintenance program has provided state support for local agencies since 1973. The program evolved into its present form with various legislative changes, including Senate Bill 34 (in 1988) and Assembly Bill 360 (in 1996). The Delta Levees Program now has two parts. The Delta Levees Maintenance Subvention Program (Subvention Program), which provides matching funds to assist with levee maintenance and improvements, is available to all levee-maintaining agencies throughout the Delta.

The Department of Water Resources (DWR) periodically develops program criteria—including questions that probe a local agency's ability to pay—that are adopted by the Central Valley Flood Protection Board (CVFPB). The two most recent efforts occurred in 2011 and 2015.

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AB 732 is the fifth in a series of bills to address the program's cost-sharing formula sunset provision. It is important to understand that the program itself has never been subject to a sunset—only the State-local agency cost-sharing formula. If the cost-sharing formula is allowed to sunset, the program would continue on a 50/50 cost-sharing basis. The problem, however, is that many local agencies would not be able to participate due to an inability to pay—particularly the rural reclamation districts that make up a sizable portion of the local agencies that participate in the program.

The challenge of determining how to make the Delta sustainable has been the subject of analysis and debate stretching back decades. The 2000 CALFED Record of Decision, for example, presented its Preferred Program Alternative that described actions, studies, and conditional decisions to help fix the Delta. Included in the Preferred Program Alternative for Stage 1 implementation was the completion of a Delta Risk Management Strategy (DRMS) that would look at sustainability of the Delta, and that would assess major risks to the Delta resources from floods, seepage, subsidence, and earthquakes. DRMS would also evaluate the consequences and develop recommendations to manage the risk. The Stage 2 implementation report noted that the Subvention Program “has suffered from uncertainty—erratic funding and frequent expirations of key legislative authorizations. Strong sentiment exists among stakeholders to resolve this difficulty through a state legislative commitment to sustained and increased funding of the program. Annual Subvention Program funding that is continuing and predictable is important to allow Delta agencies to plan for levee work and to prevent the deterioration of Delta levees. The benefits would include lessening the risk of levee failures, protecting the functionality of Delta assets and infrastructure, and providing continuation of Delta services received by the state.”

Two ability to pay studies were performed by M.Cubed for DWR in 2007. After these were completed it was determined that most agricultural reclamation districts, similar to RD 2029-Empire Tract that was the subject of one of the studies, would not have an ability to pay more than 25% after the local agency \$1,000 per mile upfront expenditure. Conversely, urban reclamation districts, such as Bishop Tract, were found to have more ability to pay. CCVFCA believes circumstances have not changed in the Delta that would indicate the ability to pay is any different today. Focusing on the ability to pay regarding the current Subvention Program cost-sharing formula also fails to acknowledge that a significant portion of reclamation district assessments pay for drainage expenses (canals, pumps, electricity, etc.) which often represents a majority of annual parcel assessment income.

The Delta Reform Act of 2009 called on the Delta Stewardship Council (Council) to lead a multi-agency effort to update priorities for State investments in the Delta levee system to reduce the likelihood and consequences of levee failures, to protect people, property, and State interests, while advancing the coequal goals of improving water supply reliability, restoring the Delta ecosystem, and protecting and enhancing the values of the Delta as an evolving place. In response, the Council launched the Delta Levees Investment Strategy (DLIS) to combine risk analysis, economics, engineering, and decision-making techniques to identify funding priorities and assemble a comprehensive investment strategy for the Delta levees. DLIS is being developed in collaboration with State agencies, local reclamation districts, Delta landowners and businesses, and other stakeholders. It will be based on the best available data, and lessons learned from other State and local programs and planning efforts.

The Delta Reform Act also recognizes the Delta Protection Commission as “the appropriate agency to identify and provide recommendations to the Delta Stewardship Council on methods of preserving the Delta as an evolving place” as the Council implements the Delta Plan (PRC section 29703.5). In addition, the Commission has authority to review and provide comments and recommendations to the Council on “any significant project or proposed project within the scope of the Delta Plan...that may affect the unique cultural, recreational, and agricultural values within the primary and secondary zones” (PRC Section 29773).

Other state agencies have noted that the Subvention Program is an excellent example of a state-local partnership with proven success. In the analysis attached to a Budget Change Proposal for Fiscal Year 2016-17 regarding the California Water Action Plan—Increase Flood Protection [Budget Request Name 3860-001-BCP-DP-2016-GB], the Department of Finance (DOF) writes:

“California’s public safety, environment and economic well-being depend on reliable water supplies and dependable and resilient water and flood management systems. The Delta Levee System Integrity Program (Program) works to achieve the State’s co-equal goals of water supply reliability and ecosystem enhancement by funding local levee improvement projects on Delta levees, supporting critical drought relief work, reducing the risk of lives lost and the risk of property damage, improving the integrity of Delta levees and protecting the water supply and critical water supply infrastructure for more than 27 million California residents, while assuring a net increase in Delta habitat.”

DOF goes on to write that the improvement of flood management and the ecosystem of the Delta is important as investments made through the subventions program, in the Central Valley and in other parts of the state “are necessary to complete comprehensive State and local flood management programs that will reduce risks of loss of life, economic loss, and environmental degradation.”

The Delta Protection Commission, in a January 19, 2017 letter to the chairman of the Delta Stewardship Council wrote:

“Recommendation RR R6 (Update Delta Levees Subvention Program’s Cost-sharing Provisions) – The Council has heard testimony from numerous parties as to the utility and efficiency of the Delta Levees Subvention Program. The Commission understands the value of this program and has been supportive of continuing it and making Delta-beneficial changes to it, including retaining the 75-25% cost-share as proposed in SB 554 in 2016. It is imperative for the Council to make a strong statement of support for the Program and the existing cost-share formula.

“Further, it does not appear that there is sufficient rationale for increasing the deductible amount and indexing it to inflation. With the relative deficiency of policies and recommendations in Chapter 7 that primarily serve to protect and enhance the unique Delta values, not increasing the \$1000 per mile deductible amount for the Delta Levees Subvention Program is a pro-Delta step that should be taken.”

The Delta Stewardship Council supports continuation of the Delta Subventions Program. Two approaches to updating cost allocations in the Subventions Program continue to be examined: (1) Recommending that the Legislature consider adjustment of the program’s per mile deductible from reclamation districts’ reimbursements through the program; and (2) Developing a more accurate methodology that illustrates a reclamation districts’ ability to pay for levee maintenance for State reimbursement of levee expenses.

The Honorable Bob Hertzberg

June 15, 2017

Page 4

According to a DSC staff memorandum prepared for the January 26, 2017 Council meeting:

“Given the importance of the Subventions Program, it is essential to ensure that the Program remains responsive to the maintenance needs of Delta levees and the reclamation districts that oversee them. As Council staff explore potential recommended refinements to the Subventions Program, it is important to note that these concepts may be considered as part of a broader suite of levee financing recommendations.”

At its March meeting, DSC reviewed a discussion draft for revisions to recommendations regarding Delta levees. In that draft, DSC staff wrote: “Confirmation that continued maintenance of Delta’s levees remains important is one result of this evaluation [gathering and evaluating the information used to recommend investment priorities]. This maintenance, including ongoing State financial support through the Delta Levees Maintenance Subventions Program, should continue. It reduces risks to lives, property and State interests and contributes to preservation of the Delta’s unique agricultural, natural, and cultural resources. This maintenance of the Delta levee network also reduces the risk that failure of one island’s levees could expose adjoining islands to increased wind waves or seepage.”

Both state and local agencies involved in the program find it to be of critical importance to preserving the Delta's invaluable resources including highly productive agriculture, recreational assets, fisheries, and wildlife, as well as protecting vital state and regional infrastructure and legacy communities.

CCVFCA respectfully requests an “AYE” vote on AB 732.

Sincerely,

ORIGINAL SIGNED

Robert J. Reeb

RJR:

Cc: The Honorable Jim Frazier
Members and Consultant, Senate Natural Resources & Water Committee
Senate Republican Fiscal and Policy Office
Office of the Governor