# ASSEMBLY WATER, PARKS AND WILDLIFE COMMITTEE

Anthony Rendon, Chair

## BILL ANALYSIS BACKGROUND INFORMATION WORKSHEET

**BILL NUMBER: SB 753**

**AUTHOR:** Steinberg

**LEGISLATIVE STAFFER (NAME & PHONE):** Kip Lipper 651-4006

The above bill has been referred to the Assembly Committee on Water, Parks and Wildlife. Please forward the following information to the committee via email or in the Legislative Office Building, Room 160. **The deadline for return of this worksheet is one week after receipt.** The Chair may withdraw the bill from its scheduled hearing if the worksheet and/or amendments are not received within the specified timelines. Please call **Diane Colborn or Tina Cannon Leahy** at 319-2096, if you have any questions.

1. What is the *purpose* of this bill?

   To improve the ability of the State's Central Valley Flood Protection Board to protect public safety by (1) establishing more effective enforcement tools to deal with unpermitted and out-of-compliance encroachments on facilities of the State Plan of Flood Control and designated floodways and streams that are regulated by the Board, and (2) revise the conditions under which the Board may order the removal or modification of permitted encroachments that are determined to be a threat to facilities of the State Plan of Flood Control and designated floodways and streams that are regulated by the Board

2. Briefly describe and cite *existing law* on this issue.

   Under current law a person or public agency must obtain a permit to place an encroachment on a state-federal levee and it is unlawful to do so without a permit. The Board has the authority to issue cease and desist orders, but the process is not well defined and lacks teeth. The Board's principal authority to remove unpermitted encroachments or to gain compliance with out-of-compliance permits is to take the offender to court. (Water Code Section 8700 – 8709.7)

   Under current law (Water Code Section 8709.4) the Board may order the removal or modification of permitted encroachments if the encroachment represents an imminent or substantial threat to the levee, channel, or flood control works.

3. *Why* is this bill needed? Please be specific and present significant facts, research studies, and pertinent background. Please provide any relevant background materials supporting the need for the bill.

   The board has hundreds of unresolved encroachment problems. The current administrative enforcement framework lacks teeth and the board must often resort to expensive and time consuming litigation to obtain resolution. Its ability to recover costs is not clear.

   The current process simply takes too long and is very costly to the State's General Fund. For example, a property owner installed a wall on a state-federal levee, a wall that would block levee inspectors from seeing if the waterside slope of the levee was in distress during high water. The owner was told to stop. He did not. The board and our DWR attorneys have met with him on numerous occasions. The board has now authorized the Attorney General to sue. The Attorney General's estimate of the cost is $110,000 to $150,000 if the case goes to trial. The board is not

expressly authorized under law to receive attorney fees, so the state may not recoup any of the $110,000 to $150,000. In addition, the lawsuit may take years to resolve, during which the time the obstruction will remain in place.

In addition to the large number of encroachments and high state costs on a per-encroachment basis, the Board needs this legislation for four reasons:

First – **Public Safety** – the levees are our first line of defense in a catastrophic flood, and we need to ensure the public safety for our urban and rural areas in the Central Valley.

Second – **State Liability** – The State is responsible for these levees as determined by the courts in the Paterno decision. We need to reduce the State's potential liability by efficiently and effectively removing illegal encroachments.

Third – **Less Federal Money** – The USACE is systematically removing sections of levee that do not meet Corps standards because of illegal encroachments and bank caving from eligibility for the Federal Program (PL 84-99) that provides funding if the levees are damaged or fail in high water. So far, about 50% of the levee systems in the Central Valley have been removed, and there will be more. This shifts the costs to the State.

And finally, fourth – **Potentially higher Flood Insurance Rates** – the Federal government is raising flood insurance rates for areas at risk of flooding. In the long run improving our levees by removing illegal encroachments will mean lower flood insurance rates for our citizens.

4. What *state agencies* does this bill affect?

   State Central Valley Flood Protection Board

   Department of Water Resources, if the Board authorizes the Department to issue Notices of Violation and the Department accepts that authorization.

5. Has a *similar bill been introduced* either this session or during a previous legislative session? NO
   If yes, please identify the bill, the legislative session and its disposition, and include all bill analyses related to it.

6. Has there been an *interim hearing or report* on the bill or on this topic? NO
   If yes, please provide the hearing transcript and/or the report.

7. Please provide the Committee with all letters received of *support and opposition* to the bill. Support and opposition letters must be received by the committee no later than **five working days prior to the hearing date** to be *listed* on the committee analysis.

   Letters will be delivered separately.

8. Do you plan to *amend* this bill prior to the hearing? YES
   If yes, briefly explain the substance of the amendments and attach a copy of the proposed language. Legislative Counsel amendments must be received by **seven days prior to the set hearing**. Please hand-deliver the signed original amendment(s) plus 8 copies (unsigned) to the committee. (NOTE: If the deadline for submitting amendments is not met by the author, the bill may be put over by the Chair.)

   The amendments are technical cleanup of the language, with the exception of one additional section that authorizes the Board to record an Enforcement Order with the county recorder. The proposed amendments are attached.

9. Please list the *witnesses* you plan to have testify.

   Bill Edgar, President, State Central Valley Flood Protection Board
   Melinda Terry, Executive Director, California Central Valley Flood Control Association

10. Does this bill have a *sponsor*? YES
    If yes, please provide the sponsor's name and phone number.

    State Central Valley Flood Protection Board
    Contact: Clyde Macdonald, Board Member (916) 801-7284
    Jay Punia, Executive Officer, State Central Valley Flood Protection Board (916) 574-0610.

***PLEASE RETURN THE ORIGINAL PLUS ONE COPY***
***OF THE COMPLETED WORKSHEET AND RELATED BACKGROUND***
***TO THE LEGISLATIVE OFFICE BUILDING, ROOM 160***

Date sent: _____

Date Water, Parks and Wildlife Committee received: _____