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**AB-489 Flood control: state financial assistance: Pajaro River.** (2019-2020)

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**Assembly Bill No. 489**

**CHAPTER 350**

An act to amend Section 12687.5 of the Water Code, relating to water.

[ Approved by Governor September 27, 2019. Filed with Secretary of State September 27, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 489, Mark Stone. Flood control: state financial assistance: Pajaro River.

Existing law provides for state cooperation with the federal government in the construction of specified flood control projects, and prescribes requirements to be met prior to state authorization of flood management projects that receive state financial aid. Existing law authorizes the state to provide subvention funds, as prescribed, to the Counties of Monterey and Santa Cruz, or to local agencies in those counties, for a flood control project on the Pajaro River, as described, at an estimated cost to the state of the sum that may be appropriated by the Legislature upon the recommendation and advice of the Department of Water Resources, as specified, and provided the county or local agency receiving these funds indemnifies the state for liability that may result from the project.

This bill would authorize the state, upon appropriation by the Legislature, to make funds available to plan, engineer, design, and construct a flood control project on the Pajaro River, as described. In the absence of federal funding, the bill would authorize the state, through the Flood Control Subventions Program, to provide this funding for the project as the project is described in a specified report by the United States Army Corps of Engineers. This bill would limit the funding for planning, engineering, designing, and constructing the project to the amount that would be the equivalent state share if there was federal project funding.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 12687.5 of the Water Code is amended to read:

**12687.5.** (a) The state may provide subvention funds in accordance with Section 12585.7 to the Counties of Monterey and Santa Cruz, or to local agencies in those counties, for the project for flood control on the Pajaro River in the Counties of Monterey and Santa Cruz, authorized by the Flood Control Act of 1966 (Public Law 89-789), that is substantially in accordance with the recommendations of the Chief of Engineers of the United States Army Corps of Engineers in House Document 491, 89th Congress, as follows:

(1) At an estimated cost to the state of the sum that may be appropriated for state cooperation by the Legislature upon the recommendations and advice of the department.

(2) Upon a specific written determination by the department that the project meets the requirements of Section 12582.7.

(b) The state assumes no liability for damages that may result from the project by either of the following:

(1) Authorizing the provision of subvention funds in accordance with this section.

(2) The appropriation by the Legislature of these subvention funds upon the recommendations and advice of the department.

(c) A county or local agency may receive the subvention funds only if it enters into an agreement with the department pursuant to which the county or local agency agrees to indemnify and hold and save harmless the state, its officers, agents, and employees for any and all liability for damages that may result from the project.

(d) For the purposes of this section, "liability for damages" includes, but is not limited to, liability for damages relating to the construction or operation of the project or the failure of the project to operate as intended.

(e) State funding, available upon appropriation by the Legislature, may be used for planning, engineering, designing, and constructing the project within authorized project boundaries as set forth in the recommendations of the Chief of Engineers of the United States Army Corps of Engineers in House Document 491, 89th Congress, as authorized by the Flood Control Act of 1966 (Public Law 89-789). In the absence of federal funding, the state, through the Flood Control Subventions Program, may fund the planning, engineering, design, and construction of the authorized project, as specified in the Army Corps of Engineers report entitled Pajaro River Flood Risk Management General Reevaluation Report & Integrated Environmental Assessment, in which case the funding shall not exceed the amount that would be the equivalent state share if there was federal project funding.