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**AB-345 Habitat restoration: flood control: advance payments.** (2023-2024)

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Date Published: 10/12/2023 02:00 PM

**Assembly Bill No. 345**

**CHAPTER 647**

An act to add Chapter 10 (commencing with Section 550) to Division 1 of the Water Code, relating to water.

[ Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 345, Wilson. Habitat restoration: flood control: advance payments.

Existing law authorizes the Department of Water Resources to make examinations of lands subject to inundation and overflow by floodwaters and of the waters causing the inundation or overflow and to make plans and estimates of the cost of works to regulate and control the floodwaters. Existing law also vests in the department charge of all expenditures unless otherwise provided by law for all public works relating to general river and harbor improvements, including reclamation and drainage of lands. Existing law authorizes the department to cooperate and contract with any agency of the state or of the United States in order to carry out its powers and purposes.

Existing law establishes the Central Valley Flood Protection Board and authorizes the board to engage in various flood control activities along the Sacramento River, the San Joaquin River, their tributaries, and related areas.

This bill would authorize the department or the board to provide advance payments, as defined, to local agencies for projects that restore habitat for threatened and endangered species under state or federal law or improve flood protection, as provided. The bill would prohibit the amount of funds advanced by the department or the board to the local agency at any one time from exceeding 25% of the entire amount authorized to be provided under the funding agreement. The bill would require the project proponent to demonstrate a need for an advance payment and that the project proponent is sufficiently qualified to manage the project and the project's finances. The bill would require the funds to be spent within 6 months and would require the recipient to provide an accountability report to the department or the board on a quarterly basis, as specified.

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

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

**SECTION 1.** Chapter 10 (commencing with Section 550) is added to Division 1 of the Water Code, to read:

**CHAPTER 10. Advance Payments for Habitat Restoration and Flood Protection Projects**

**550.** (a) The department and the board have discretion to provide advance payments to local agencies for projects that satisfy the following criteria:

- (1) Have at least one of the following project purposes:

(A) Restoring habitat for threatened and endangered species under state or federal law.

(B) Improving flood protection.

(2) The project proponent has demonstrated, to either the department's or the board's satisfaction, a need for an advance payment.

(3) The project proponent has demonstrated, to either the department's or the board's satisfaction, that the project proponent is sufficiently qualified to manage the project and the project's finances.

(b) For a project for which an advance payment is made pursuant to this section, the amount of funds advanced by the department or the board to the local agency at any one time shall not exceed 25 percent of the entire amount authorized to be provided under the funding agreement with the local agency.

(c) A local agency may deposit funds advanced pursuant to this section in its treasury. Any interest earned on advanced funds shall be applied to the project for which funds were advanced.

(d) Funds advanced pursuant to this section shall be handled as follows:

(1) The funds shall be spent within six months of the date of receipt, unless the department or the board waives this requirement.

(2) The recipient shall, on a quarterly basis, provide an accountability report to the department or the board regarding the expenditure and use of any advanced grant funds that provides, at a minimum, the following information:

(A) An itemization as to how advance payment funds provided pursuant to this section have been expended.

(B) A project itemization as to how any remaining advance payment funds pursuant to this section will be expended over the period specified in paragraph (1).

(C) (i) Whether the funds are placed in a noninterest-bearing account and, if so, the date that occurred and the dates of withdrawals of funds from that account, if applicable.

(ii) If the funds are placed in an interest-bearing account, information on any interest that has accrued and, if the money has been expended, how it was expended.

(D) An evaluation of whether the project is on schedule. If the project is behind schedule, the report shall identify what has caused the delay and actions taken or that will be taken to remedy the delay.

(3) If the funds are not expended, the unused portion of the grant shall be returned to the department or the board within 60 days after project completion or the end of the grant performance period, whichever is earlier.

(4) The department or the board may adopt additional requirements for the recipient regarding the use of the advance payment to ensure that the funds are used properly.

(e) In light of the state's interest in projects to restore habitat for threatened and endangered species or improve flood protection, the department or the board may reduce or eliminate any retention that would otherwise be withheld under a funding agreement for which funds are advanced under this section.

(f) For purposes of this section, the following terms have the following meanings:

(1) "Advance payments" means funds that are provided to a local agency before the local agency has incurred expenses in furtherance of a project described in subdivision (a) and that are provided by the department or the board to allow the local agency to fund the project on a cashflow basis.

(2) "Board" means the Central Valley Flood Protection Board.

(3) "Department" means the Department of Water Resources.