



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #446

State Disaster Assistance Program (Military Affairs)

[LFB 2011-13 Budget Summary: Page 287, #9]

CURRENT LAW

The state disaster assistance program makes payments to local units of government and to federally recognized American Indian tribes or bands for the damages and costs incurred as the result of a disaster if federal disaster assistance is not available. Eligible costs of local units of government under the state program include: (a) debris removal, to include woody debris, building wreckage, dirt, gravel, vehicles, and other disaster-related materials; (b) emergency protective measures to eliminate or reduce immediate threats to life, public health, or safety or a hazard that threatens significant damage to improved public or private property; and (c) damages to roads and bridges. To be eligible for a payment under the program, the local unit of government or tribe or band must pay 30% of the amount of the damages and costs resulting from the disaster.

GOVERNOR

Provide \$1,000,000 SEG in 2011-12 to the state disaster assistance SEG continuing appropriation to provide additional funding for the state disaster assistance program. Funding would be provided from the petroleum inspection fund. Any funds not expended in 2011-12, would be available to the program in subsequent years.

DISCUSSION POINTS

1. Local governmental units are generally responsible for providing the public response to damage left by storms, including the removal of debris from roadways and other public spaces, providing emergency protective measures, and repairing damage to roads and bridges. [However,

the Department of Transportation does provide flood damage aid payments from the transportation fund to local units of government when any public highway, street, alley, or bridge not on the state trunk highway system is damaged by flood.]

2. In the case of more substantial storms, neighboring municipalities will assist affected local governmental units to provide the required public response. If local governmental units are overwhelmed, they will turn to the state for assistance.

3. If both the state and local governmental units are overwhelmed by a disaster, the Federal Emergency Management Agency (FEMA) may provide assistance under the federal public assistance program. The public assistance program provides funding to state, tribal and local governmental units for debris removal, emergency protective measures, and for repair of public infrastructure and public facilities. Prior to the creation of the state disaster assistance program, supplemental funding to offset state and local governmental costs of disasters was generally limited to the federal public assistance program.

4. In order to receive federal assistance following a disaster, the Governor must generally submit a request to the President seeking a major disaster declaration. According to a report for Congress prepared by the Congressional Research Service, "Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary."

5. In administering the federal public assistance program, the federal government has developed state and county per capita damage thresholds to assess whether or not eligible public damage from a disaster is of such severity and magnitude that effective response is beyond the capabilities of state and local governments. Generally, both the state and county per capita damage thresholds must be met in order for the federal government to provide assistance.

6. The provisions of 2005 Act 269 created the state disaster assistance program. The state disaster assistance program provides payments for damages and costs incurred as the result of a disaster if federal disaster assistance is not available for that disaster because either the Governor's request that the President declare the disaster a major disaster has been denied, or because the disaster, as determined by the Department of Military Affairs (DMA), does not meet the statewide or countywide per capita damage threshold under the federal public assistance program. Under administrative rules issued by DMA, eligible costs of local units of government under the program include: (a) debris removal, to include woody debris, building wreckage, dirt, gravel, vehicles, and other disaster-related materials; (b) emergency protective measures to eliminate or reduce immediate threats to life, public health, or safety or a hazard that threatens significant damage to improved public or private property; and (c) damages to roads and bridges, to include surfaces, bases, shoulders, ditches, drainage structures, piers, girders, abutments, slope protection, and approaches. To be eligible for a payment under the program, the local unit of government or tribe or band must pay 30% of the amount of the damages and costs resulting from the disaster.

7. Act 269 created two appropriations to make disaster payments under the program to

local units of government. A state disaster assistance GPR annual appropriation was created under DMA funded at \$0 annually during the 2005-07 biennium. Since its creation, the Legislature has never used this appropriation to provide funding for the program.

8. In addition, a state disaster assistance SEG annual appropriation was also created under DMA funded at \$3 million SEG annually during 2005-07. This latter appropriation is funded with revenue from the petroleum inspection fund.

9. The 2007-09 biennial budget act converted the state disaster assistance SEG annual appropriation to a continuing appropriation, and deleted the entire \$3,000,000 SEG annually in base expenditure authority. As a continuing appropriation, any amounts appropriated will not lapse back to the petroleum inspection fund at the end of a fiscal year, but instead will remain in the appropriation until expended. The 2007-09 biennial budget act also provided that the dollar amount for this appropriation be increased in 2007-08 by the lesser of \$1,000,000 or the unencumbered balance in the appropriation immediately before the lapse of any money remaining in the appropriation on June 30, 2007. As a result, this appropriation began the 2007-09 biennium with a balance of \$1,000,000 SEG. Over the course of the 2007-09 biennium, DMA made payments under the program totaling \$473,400 SEG, and carried over \$526,600 SEG in unobligated expenditure authority into the current biennium.

10. Under the 2009-11 biennial budget act, the Legislature provided an additional \$1,000,000 SEG in 2009-10 to the state disaster assistance SEG continuing appropriation for disaster assistance. Department of Military Affairs staff estimate that this appropriation will conclude the 2009-11 biennium with a balance of \$100,000 SEG.

11. Under the bill, the Governor again recommends providing \$1,000,000 SEG in 2011-12, to the state disaster assistance SEG continuing appropriation for disaster assistance. As DMA has utilized approximately this much funding, on average, over the last two biennia for disaster assistance, the Committee could consider approving the recommendation. [Alternative 1]

12. Based on average spending over the last two biennia, the Committee could also consider providing \$475,000 SEG annually to the state disaster assistance SEG continuing appropriation. Under this latter alternative: (a) expenditure authority could be reduced by \$50,000 SEG over the biennium to reflect average payments over the last two biennia; and (b) base year funding to the program of \$475,000 SEG in 2012-13 could be provided. With base year funding, the program would not need to be specifically funded beyond the base every two years in order to continue to operate. [Alternative 2]

13. The Committee could also consider deleting the provision. Under this alternative, DMA could utilize any resources carried over from this biennium to make disaster payments in 2011-13. Under the program, if funding is insufficient to fully fund all claims, DMA will be required to prorate funding when satisfying claims under the program. However, based on experience over the last two biennia, \$100,000 SEG may only address a portion of the claims that may be received by DMA during the 2011-13 biennium. [Alternative 3]

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$1,000,000 SEG in 2011-12 to the state disaster assistance SEG continuing appropriation to provide additional funding for the state disaster assistance program.

2. Provide \$475,000 SEG annually to the state disaster assistance SEG continuing appropriation to provide additional funding for the state disaster assistance program.

| ALT 2 | Change to Bill Funding |
|--------------|-----------------------------------|
| SEG | - \$50,000 |

3. Delete provision.

| ALT 3 | Change to Bill Funding |
|--------------|-----------------------------------|
| SEG | - \$1,000,000 |

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