

# Legislative Analysis



## DISASTER CONTINGENCY FUND

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**Senate Bill 330 (Substitute S-4)**

**Sponsor: Sen. Tom Casperson**

**Senate Committee: Appropriations**

**House Committee: None (Place directly on Second Reading)**

**Complete to 6-19-13**

## A REVISED SUMMARY OF SENATE BILL 330 AS PASSED BY THE SENATE 6-13-13

Senate Bill 330 (S-4) would amend provisions of the Emergency Management Act (1976 PA 390) concerning the Disaster Contingency Fund.

Section 18 (MCL 30.418) of the act creates the Disaster Contingency Fund which provides support, upon appropriation, for paying costs incurred by state employees and state agencies when responding to a disaster or emergency. The fund may be expended to provide the state's matching share for federal disaster assistance following a presidential declaration of a state of emergency or disaster.

Section 19 (MCL 30.419) of the act also provides that the fund may be expended to provide assistance to counties and municipalities (cities, villages, and townships) responding to an emergency or disaster when federal assistance is not available, following the declaration by the governor of a state of emergency or a state of disaster. Assistance grants made to counties and other municipalities from the fund are limited to the lesser of (1) \$30,000 or (2) 10% of the prior year total annual operating budget for the county or municipality.

Senate Bill 330 (S-4) would increase the amount of assistance provide to counties and other municipalities from the Disaster Contingency Fund to the lesser of (1) \$100,000 or (2) 10% of the prior year total annual operating budget for the county or municipality.

## FISCAL IMPACT:

Historically, the Disaster Contingency Fund has not been utilized to any great degree. Rather than maintaining a fund balance and making appropriations from the fund to support state and local efforts in responding to disasters and emergencies, the Legislature has opted to make supplemental appropriations (typically from the General Fund) as the need arose.

According to Department of State Police data, from January 1977 through July 2012, there have been 21 presidential declarations and 63 gubernatorial declarations of emergency or disaster in Michigan. Over the last several years, state funds (either the Disaster Contingency Fund or the General Fund) have also been expended to provide assistance to communities affected by tornadoes, wind storms, and flooding, including communities in Monroe County (2010), Calhoun County (2011), and Genesee County

(2012), as noted in the table below. Of the three disasters, however, only assistance to Calhoun County communities was made from the Disaster Contingency Fund itself.

<b>Fiscal Year</b>	<b>Affected County</b>	<b>Type of Disaster</b>	<b># of Local Grants</b>	<b># Receiving \$30,000 max.</b>	<b>Total Paid</b>	<b>Public Act</b>	<b>Fund Source</b>
2009-10	Monroe	Tornado	6	4	\$134,627	2010 PA 142	GF/GP
2010-11	Calhoun	Windstorm	5	3	\$123,768	2011 PA 83	DCF
2011-12	Genesee	Flooding	3	3	\$90,000	2011 PA 63	GF/GP
			<b>14</b>	<b>10</b>	<b>\$348,395</b>		

In FY 2009-10, the Legislature enacted a supplemental appropriation bill that appropriated \$134,600 GF/GP to provide financial assistance to communities in Monroe County as specified in Section 19 of the Emergency Management Act. In July 2011 the Legislature appropriated \$750,000 GF/GP to the Disaster Contingency Fund, allocating \$250,000 to provide assistance to state agencies and local communities following severe storms in Calhoun County in May 2011. The fund has a balance of about \$508,550 currently. Disaster contingency assistance was also made available within the existing (enacted) budgetary resources for the MSP Emergency Management and Homeland Security Division (EMHSD) in response to May 2012 flooding that affected several communities within Genesee County.

The effect of increasing the maximum amount of assistance available to municipalities from \$30,000 to \$100,000 isn't immediately known. It isn't necessarily the case that larger municipalities that would likely be eligible for the maximum \$30,000 under the act would automatically be eligible for the \$100,000 maximum provided under SB 330. (In other words, it isn't the case that the \$300,000 paid to the 10 municipalities in Monroe, Calhoun, and Genesee counties would have been \$1.0 million had the cap been \$100,000 at the time.) For instance, Calhoun County's eligible expenditures related to the May 2011 windstorm totaled \$48,645.

One of the limiting factors in the amount of assistance provided is a requirement in the MSP administrative rules that provides that a municipality must experience an extraordinary financial burden "demonstrated by the [municipality's] incurring expenses, over a consecutive 5-day period, for the allowable expenditures... in an amount that is not less than \$30,000.00 or 1% of the applicant's affected agencies' annual general fund operating budget, whichever is less."<sup>1</sup> Many smaller municipalities would likely be unaffected by the increase.

It should be noted that this bill would increase the maximum amount of assistance provided to municipalities while the department has recently conducted damage assessments related to severe and widespread flooding that occurred across the state in April and May 2013. On May 7, Governor Snyder declared a state of disaster for 19 counties plus the cities of Grand Rapids and Ionia as a result of the flooding<sup>2</sup>, and

<sup>1</sup> R 30.53, [http://www7.dleg.state.mi.us/orr/Files/AdminCode/1000\\_42\\_AdminCode.pdf](http://www7.dleg.state.mi.us/orr/Files/AdminCode/1000_42_AdminCode.pdf).

<sup>2</sup> In addition to Grand Rapids and Ionia, the governor's disaster declaration also covers the following counties: Baraga, Barry, Benzie, Genesee, Gogebic, Gratiot, Houghton, Ionia, Kent, Keweenaw, Marquette, Mecosta, Midland, Muskegon, Newaygo, Ontonagon, Osceola, Ottawa and Saginaw. See, *Governor Snyder declares state of disaster in 19 counties and two cities due to flooding; State requests federal officials to assist with assessing*

recently submitted a request to the Federal Emergency Management Agency (FEMA) requesting a presidential declaration of disaster based on the result of preliminary damage assessments (PDAs) conducted jointly by MSP-EMHSD and FEMA.<sup>3</sup> If a federal declaration is not issued, assistance would be made available to affected municipalities from the Disaster Contingency Fund.

According to the request for a presidential disaster declaration, the MSP/FEMA PDA estimated public damage totaling \$18.5 million, including \$12.7 million in 12 Lower Peninsula counties, and \$5.7 million in six Upper Peninsula counties. This damage amount, the request notes, equates to a per-capita loss of \$1.88, which exceeds the statewide per-capita threshold of \$1.37 for consideration for public assistance.<sup>4</sup> The Disaster Contingency Fund would likely be used to support the state's share of matching costs for any federal disaster assistance provided.

## **BACKGROUND INFORMATION:**

### **FY 2013-14 Budget Actions**

The FY 2013-14 Budget for the Department of State Police (2013 PA 49, Article XVI) appropriates \$2.0 million GF/GP to the Disaster Contingency Fund. The Executive Budget Recommendation for FYs 2013 and 2014 had recommended that \$8.0 million GF/GP be appropriated to the Disaster Contingency Fund over the course of the two fiscal years, which would have potentially increased the fund balance to around \$8.5 million. The act currently provides that the Legislature shall annually appropriate sufficient funds to maintain a fund balance in the Disaster Contingency Fund between \$30,000 and \$750,000. In addition, 2013 PA 59 provides for boilerplate authority for the Departments of State Police (MSP) and Natural Resources (DNR) to each expend up to \$800,000 from the fund. This authority would permit the departments to expend up to the amount specified in boilerplate from the fund as situations arise, negating the need for subsequent mid-year supplemental appropriations. The State Budget Office has noted that since 2005, the state has expended more than \$12.0 million in responding to the Duck Lake Fire in 2012 (\$3.1 million) and the Sleeper Lake Fire in 2007 (\$7.9 million).<sup>5</sup>

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*damage*, May 7, 2013 Press Release, [http://www.michigan.gov/snyder/0,4668,7-277-57577\\_57657-302159--00.html](http://www.michigan.gov/snyder/0,4668,7-277-57577_57657-302159--00.html).

<sup>3</sup> See, *Snyder seeks presidential disaster declaration to assist 16 counties in wake of recent flooding*, June 7, 2013 Press Release, [http://www.michigan.gov/snyder/0,4668,7-277-57577\\_57657-305357--00.html](http://www.michigan.gov/snyder/0,4668,7-277-57577_57657-305357--00.html). The counties are Allegan, Barry, Baraga, Gogebic, Houghton, Ionia, Kent, Keweenaw, Marquette, Midland, Muskegon, Newaygo, Ontonagon, Osceola, Ottawa and Saginaw. The press release states, "[b]ecause this incident is of such severity and magnitude, Snyder requested supplementary federal aid in the form of public assistance to help cover some of the costs incurred by state and local governments due to damage to public facilities and infrastructures. This request does not include assistance for individuals or businesses...Based on information provided by the Michigan State Police, Emergency Management and Homeland Security Division, state officials requested five federal Preliminary Damage Assessment (PDA) teams to verify and review the most severely damaged homes, businesses, and public facilities and infrastructures across the state's upper and lower peninsulas. The teams conducted their assessments from May 9-22. State officials assessed the PDA results and determined the extent of damage may reach the level for receiving federal assistance."

<sup>4</sup> See, Federal Emergency Management Agency, *Notice of Adjustment of Statewide Per Capita Impact indicator*, 77 Federal Register 61423 (October 9, 2012), <http://www.gpo.gov/fdsys/pkg/FR-2012-10-09/pdf/2012-24673.pdf>.

<sup>5</sup> The original Executive Recommendation on this proposal did not recommend any increase in the maximum amount of assistance provided to municipalities.

House Bill 4670 (Rep. McCready) is a companion measure to the FY 2013-14 budget act, and would require that the fund balance be between \$1.0 million and \$8.5 million, and would clarify that the any unexpended and unencumbered funds remaining in the fund as the close of the fiscal year would remain in the fund and not lapse to the General Fund. The bill would also require the state treasurer to direct investment of the fund and credit any investment earnings to the fund. The bill would also rename the fund as the Disaster and Emergency Contingency Fund, which is the reason why SB 330 amends references to the fund to say, instead, the Disaster and Emergency Contingency Fund.

### **Grant Assistance Requirements**

Under Department of State Police administrative rules, to be eligible for assistance from the fund, counties and municipalities must (1) maintain or be part of an emergency management program, (2) implement its emergency operations plan at the onset of the disaster or emergency, (3) utilize all available and applicable disaster relief forces, (4) experience an extraordinary financial burden evidenced by expenditures of at least \$30,000 or 1% of its operating budget over a consecutive 5-day period, (5) conduct an assessment of damages incurred during the disaster or emergency, and (6) declare a local state of emergency.

Rules further provide that grant applications must be submitted after a governor's declaration of emergency or disaster, and within 20 days after notice that grant assistance is available. The department has 15 days to review applications and verify the damage assessment.

Grant assistance shall be used to reimburse counties and municipalities for resources that are used to mitigate the effects of, or in response to, a disaster or emergency, including (1) overtime for police, fire, public works, or road commission employees; (2) shelter supplies; (3) gasoline and fuel for equipment; (4) equipment repair costs; (5) costs to support volunteer disaster relief workers; and (6) costs to repair public buildings, roads, and other facilities.

Fiscal Analyst: Mark Wolf

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