

Date of Hearing: April 4, 2018

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2966 (Aguiar-Curry) – As Introduced February 16, 2018

SUBJECT: Disaster relief

SUMMARY: Would provide that the state share for the removal of dead and dying trees in connection with the Governor’s proclamation of a state of emergency issued on October 30, 2015, is no more than 90% of total state eligible costs under the California Disaster Assistance Act (CDAA).

EXISTING LAW:

- 1) Establishes the CDAA which generally provides that the state must pay 75% of the non-federal share of eligible costs for any state declared emergency.
- 2) Prohibits the state share for any eligible project from exceeding 75% of total state eligible costs unless the local agency is located within the city, county, or city and county that has adopted a local hazard mitigation plan, in accordance with the federal Disaster Mitigation Act of 2000, as part of the safety element of its general plan, as specified.
- 3) Provides for certain disasters that allow the state to cover up to 100% of the non-federal eligible costs. (e.g., 1989 Loma Prieta earthquake, 1991 East Bay Fire, 1994 Northridge earthquake, the 2001 Southern California wildfires, and the 2003 San Simeon earthquake).

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill: According to the author: “This bill will increase the state’s share of costs associated with the removal of dead and dying trees. This policy change makes local matching dollars more realistic to obtain, particularly in rural counties with fewer resources. With state funding more readily available, AB 2966 will expedite dead and dying tree removal, thus reducing wildfire risks and other public safety hazards associated with the tree mortality crisis.”

Background: CDAA is California's state disaster assistance program. CDAA reimburses local governments for debris removal, emergency work, and repair or replacement of public facilities damaged by a disaster upon a Governor's proclamation. The state share of eligible expenses is 75%, and local jurisdictions are responsible for the remaining 25%. When there is a federal declaration, the Federal Emergency Management Agency (FEMA) pays 75% and the state pays 75% of the remaining 25%. In recent federally declared disasters, it has been the Legislature's practice to increase the Act funding to 100% so that the state would pay the entire remaining 25% of non-federal share of eligible costs. The Legislature usually has not increased the Act funding to 100% for state-only disasters that are not federally declared. For some statutorily specified disasters, the state has paid 100% of the non-federal eligible disaster mitigation costs (see “Sharing the cost” below).

It is important to note that existing law, AB 2140 (Hancock, Chapter 739, Statutes of 2006), prohibits the state share for any eligible project from exceeding 75% of state eligible costs unless the local agency has adopted a local hazard mitigation plan as part of the safety element of its general plan.

Wildfires: California's 2017 wildfire season will go down as one of the worst in the state's history. From January 1, 2017, through December 31, 2017, over 9,000 fires burned more than 1.2 million acres, an increase from the previous year which brought 6,986 fires burning around 564,000 acres, according to Cal Fire. The total acreage in 2017 included nearly 300,000 acres burned solely by the Thomas Fire, which grew to the largest wildfire in state history in late December.

The Thomas Fire lasted over 40 days, burning 281,893 acres. The blaze began on December 4 in Ventura County and exploded in growth due to strong Santa Ana winds. It destroyed over 1,000 structures and claimed two lives. While the Thomas Fire became the largest California wildfire in recorded history, it was also the seventh-most destructive, in terms of number of structures destroyed. However, two months prior to the Thomas Fire, a new record was set for most destructive wildfire in state history.

In October, the Tubbs Fire, which burned over 36,000 acres in the state's wine country, destroyed 5,643 structures and claimed 22 lives in Sonoma and Napa counties. The number of structures destroyed from the Tubbs Fire alone is more than half of the 10,780 total structures lost to wildfire in 2017 statewide. The 22 deaths also make it the third deadliest wildfire on record in California. Along with the Tubbs Fire, multiple other destructive blazes damaged critical infrastructure and forced evacuations from October 8 through October 31 across seven counties.

Tree Mortality: A recent report, published February 2018, by the Little Hoover Commission, titled: "*Fire on the Mountain: Rethinking Forest Management in the Sierra Nevada*", identifies dead and dying trees or tree mortality as a major contributor to heightened risk of severe wildfire. According to the report, in just eight years, due to historic drought and bark beetle infestation, California has lost more than 129 million trees to the tree mortality crisis. This recent crisis differs from other tree mortality episodes in the past due to its vast range, the speed at which it has spread and the devastation it has inflicted. Though trees began dying in 2010, officials began describing the crisis in 2014 as unprecedented: Nearly eight million trees died between 2010, 2014, another 3.3 million died in 2014, twenty-nine million died in 2015, Sixty-two million died in 2016, and about two million more a month dying in 2017.

Emergency Declaration: In October 2015, Governor Brown issued an executive order proclaiming the State of Emergency for drought and tree mortality as a result of years of drought and infestation by the bark beetle which has resulted in the killing of tens of millions of trees across California. Governor Brown stated that "the tree die-off is of such a scale that it significantly worsens wildlife risk in many areas of the state and presents life safety risks from falling trees to Californians living in rural, forested communities."

That same Executive Order approved CDAA funds to assist local governments in the removal of dead and dying trees. The County of Tuolumne applied and was approved for CDAA funds in November of 2015. In addition, Amador, Calaveras, Fresno, Kern, Madera, Nevada, Placer, and Shasta counties have also applied and been approved for CDAA funds.

Sharing the cost: When federal officials declare a disaster area, the federal government pays 75% of the disaster costs; the other 25% of the costs is shared by the state and the affected local government. As stated above, there are some exceptions where the state has paid 100% of the non-federal eligible disaster mitigation costs in specified disasters (see list below). Generally, the Legislature usually has not increased CDAA funding to 100% for state-only disasters that are not federally declared. This bill is unique in that it is seeking to expand the state share of state eligible costs to 90% and not the usual 100%.

Payment of the local share of disaster-related costs has been statutorily extended in the following federally recognized disasters:

- The October 17, 1989, Loma Prieta earthquake;
- The October 20, 1991, East Bay fire;
- The fires that occurred in southern California from October 1, 1993, to November 30, 1993;
- The January 17, 1994, Northridge Earthquake;
- The storms that occurred in California in January and February, 1995;
- The storms that occurred in California in December, 1996 and early January of 1997;
- The winter storms and flooding that occurred from February 1, 1998, to April 30, 1998;
- The wildfires that occurred in southern California commencing October 21, 2003;
- The December 22, 2003, San Simeon Earthquake;
- The storms, flooding, debris flows, and mudslides that occurred during December 27, 2004, to January 11, 2005;
- The storms, flooding, landslides, and mud and debris flows that occurred in southern California during the period from February 16, 2005, to February 23, 2005;
- The storms, flooding, mudslides, and landslides that occurred in northern California during the period from December 17, 2005, to January 3, 2006;
- The storms and flooding that occurred in northern and central California during the period from March 29, 2006, to April 16, 2006.

Budget Action: In addition to the October 2015 proclamation, the State has responded to this crisis by allocating additional funds. The 2017 budget included an additional \$200 million of Cap and Trade funds to support healthy and fire resilient forests. The 2018-19 Governor's Budget Proposal, released January 10, 2018, allocates \$180 million of Cap and Trade funds to CAL FIRE for the same purpose.

Support: Rural County Representatives of California writes in support: "California's forested counties are currently suffering myriad impacts from prolonged drought conditions, most notably the tree mortality disaster which has resulted in 129 million dead trees thus far across the Southern and Central Sierras...Counties in tree mortality areas have been providing much-needed aid to private residents on their property. While Counties have been able to access some State grant assistance funds, it is imperative that CDAA funds are also more readily available for counties to utilize for this emergency before more trees begin to fall. To that end, most of the impacted counties struggle to meet the 25 percent match requirements to receive CDAA funding, and a reduction in the match to 10 percent would allow more counties to utilize these funds and continue their work removing hazard trees to ensure the safety of their communities".

Prior/Related Legislation: AB 265 (Berryhill), 2017-2018 Legislative Session. Would have provided that the state share for the removal of dead and dying trees in connection with the Governor's Proclamation of a State of Emergency issued on October 30, 2015, is no more than 90% of total state eligible costs. (Died in Assembly Appropriations Committee)

SB 1118 (Berryhill) of 2015-2016 Legislative Session. Adds the forest fires that occurred in the County of Calaveras in 2015 to the list of events for which the state share of state eligible costs is up to 100% under the CDAA. (Held in Senate Appropriations Committee)

SB 937 (McGuire) of 2015-2016 Legislative Session. Adds the forest fires that occurred in the County of Lake in 2015 to the list of events for which the state share of state eligible costs is up to 100% under the CDAA. (Held in Senate Appropriations Committee)

AB 18 (Dodd, 2015) of 2015-2016 Legislative Session. Adds the South Napa earthquake that occurred in Napa County on August 24, 2014 to the list of disaster events for which the state share of state eligible costs is 100%. (Held in Senate Appropriations Committee)

AB 1429 (Chesbro) of 2011-2012 Legislative Session. Would have added the tsunami that occurred in Del Norte County on March 2011 to the list of disaster events for which the state share of state eligible costs is 100%. (Vetoed – Governor's message noted, "*The state has not paid for a local government's share of disaster costs since 2006 and this measure would cost the state over \$1 million. In addition, if I sign this measure, other counties that sustain similar damages would likely request the same relief – a precedent that the state currently cannot afford.*")

SB 1537 (Kehoe, Chapter 355, Statutes of 2008). Added the wildfires that occurred in southern California, commencing on or about October 20, 2007, to the list of disasters eligible for full state reimbursement of local agency costs under the CDAA. (SB 1537 failed to become operative because it was contingent upon the enactment of SB 1764 (Kehoe, 2008) which was vetoed.)

SB 1764 (Kehoe) of 2007-2008 Legislative Session. Would have required a local agency, on or after January 1, 2010, to obtain an annual certification by the State Fire Marshal (SFM) to be eligible to receive a percentage for a state share in excess of 75%. Also, would have required the SFM to specify the possible percentage a local agency may receive in excess of the 75% based upon certain criteria and regulations to be promulgated by SFM on or before July 1, 2009. (Vetoed by Governor)

SB 1308 (Cox, Chapter 400, Statutes of 2008). Included the Angora Fire which occurred in the Lake Tahoe Basin commencing June 24, 2007, to the list of disasters eligible for full state reimbursement of local agency costs under the CDAA. [AB 1308 failed to become operative because it was contingent upon the enactment of SB 1764 (Kehoe, 2008) which was vetoed.]

AB 49 (Arambula) of 2008-2009 Legislative Session. Would have amended the CDAA by adding the extreme cold weather that occurred throughout California during the month of January 2007 to the list of specific events eligible for full state reimbursement of local agency costs. (Held in Assembly Appropriations Committee)

AB 2140 (Hancock, Chapter 739, Statutes of 2006). Prohibits the state share for any eligible project from exceeding 75% of state eligible costs unless the local agency has adopted a local hazard mitigation plan as part of the safety element of its general plan.

AB 1798 (Berg, Chapter 896, Statutes of 2006). Added the severe rainstorms that occurred in selected counties in Northern California from December 17, 2005, to January 3, 2006, to the list of disasters eligible for full state reimbursement of local agency costs under the CDAA.

AB 2140 (Hancock, Chapter 739, Statutes of 2006). Prohibited the state share for any eligible project from exceeding 75% of total state eligible costs unless the local agency is located within a city, county, or city and county that has adopted a local hazard mitigation plan as part of the safety element of its general plan, as specified.

AB 2735 (Nava, Chapter 897, Statutes of 2006). Added the severe rainstorms that occurred in select counties in Northern California from December 17, 2005, to January 3, 2006, to the list of disasters eligible for full state reimbursement of local agency costs under the CDAA.

AB 164 (Nava, Chapter 623, Statutes of 2005). Added the severe storms, flooding, debris flows, and mudslides that occurred in the Counties of Kern, Los Angeles, Santa Barbara and Ventura in December 2004, January 2005, February 2005, and March 2005, to the list of disasters eligible for full state reimbursement of local agency costs under the CDAA.

SB 457 (Kehoe, Chapter 622, Statutes of 2005). Added the severe rainstorms, floods, mudslides, and other events that occurred in the Counties of Orange, Riverside, San Bernardino, and San Diego during December 2004, January 2005, February 2005, March 2005, and June 2005 to the list of disasters eligible for full state reimbursement of local agency costs under the CDAA.

AB 1510 (Kehoe, Chapter 772, Statutes of 2004). Added the Southern California wildfires that occurred during October and November 2003 and the San Simeon earthquake that occurred during December 2003 to the list of disasters eligible for full state reimbursement of local agency costs under the CDAA.

SB 438 (Soto) of 2003-2004 Legislative Session. Would have amended the CDAA by adding the wildfires that occurred in Southern California beginning October 21, 2003, and the December 22, 2003, San Simeon earthquake to the list of disasters eligible for full state reimbursement of local agency costs. (Vetoed by the Governor)

REGISTERED SUPPORT / OPPOSITION:

Support

California Farm Bureau Federation
California Forestry Association
California State Association of Counties
Rural County Representatives of California

Opposition

None on file

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