

Date of Hearing: June 30, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

SB 1385 (Leyva) – As Amended March 29, 2016

SENATE VOTE: 39-0

SUBJECT: California Disaster Assistance Act: Inland Regional Center

SUMMARY: This bill adds a stand-alone section of law to the California Disaster Assistance Act (CDAA) that stipulates the state share of eligible costs to local entities shall be 100% of total state eligible costs in connection with the shooting that occurred at the Inland Regional Center in San Bernardino on December 2, 2015.

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. For some statutorily specified disasters the state is required to pay 100% of the non-federal cost.
- 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.

FISCAL EFFECT: According to the Senate Appropriations Committee, estimated General Fund costs of approximately \$1.6 million, payable over several fiscal years beginning in 2016-17, based upon preliminary estimates of eligible disaster-related costs.

COMMENTS:

Background: The California Disaster Assistance Act (Act) is California's state disaster assistance program. The Act 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% nonfederal 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.

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.

Purpose of the bill: According to the author: "On December 2, 2015, terrorists opened fire with semi-automatic weapons on 100 employees of the County of San Bernardino Division of Environmental Health Services who were participating in an all-day training session. The attack killed 14 people, seriously injured 22 other individuals and was the deadliest terrorist attack on U.S. soil since September 11, 2001. As the terrorist attack unfolded, law enforcement immediately sprang into action to protect the public and apprehend the terrorists. First responders were on site within minutes and provided tactical and strategic law enforcement and emergency medical services during and after the mass shooting."

"SB 1385 would ensure these local agencies who responded promptly and heroically to the San Bernardino tragedy will be eligible to receive 100 percent reimbursement for costs related to the attack."

The author's office points out that the CDAA is the primary funding mechanism available for recovering local costs in response to disasters. The San Bernardino tragedy is the first "terrorist" attack for which the Office of Emergency Services (OES) is responsible for determining what costs will be eligible for reimbursement. Typically, the CDAA has been used in response to natural disasters and, in most cases, the state provides 75% reimbursement for eligible costs and local government is responsible for the remaining 25%. The author's office notes that in some statutorily identified disasters the state has paid 100% of the non-federal eligible disaster mitigation costs.

The author's office claims that the estimated cost in responding to the San Bernardino terrorist attack exceeds \$18 million and, without further state help, local agencies will be financially penalized for their rapid and comprehensive response to this tragedy. Furthermore, the author's office emphasizes that the City of San Bernardino is still grappling with a recent bankruptcy filing and the County continues to wage an uphill battle with respect to unemployment and a 20% poverty index.

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 the Act funding to 100% for state-only disasters that are not federally declared. The incident in question in SB 1385 was not a federally declared disaster.

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.

Prior/Related Legislation: 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

County of San Bernardino (Sponsor)
California Professional Firefighters

California State Association of Counties
City of San Bernardino
Inland Action
San Bernardino County District Attorney
San Bernardino County Sheriff's Department
Urban Counties of California

Opposition

None on file

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