

2001 DRAFTING REQUEST

Bill

Received: 09/27/2000

Received By: nelsorp1

Wanted: As time pcrmits

Identical to LRB:

For: Administration-Budget 7-0371

By/Representing: Uecker

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Military Affairs - emerg govt

Extra Copies:

Pre Topic:

DOA:.....Uecker -

Topic:

Appropriation for reimbursing local governments for certain expenses regarding emergency responses

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 10/04/2000	gilfokm 10/05/2000	pgreensl 10/06/2000	_____	lrb_docadmin 10/06/2000		S&L
/2	nelsorp1 10/18/2000	gilfokm 10/18/2000	martykr 10/19/2000	_____	lrb_docadmin 10/19/2000		S&L

FE Sent For:

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FE Sent For:

12-10/18 King Km 10/19 RS Km 10/19

<END>

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1/?	nelsorp1	11-10/5 KMG	10/5 P.G.	10/5 PG KF			

FE Sent For:

<END>



Date: September 25, 2000
To: Steve Miller, LRB
From: Deborah Uecker, DOA
267-0371
Subject: Department of Military Affairs Statutory Language

I am forwarding statutory language changes that the Department of Military Affairs (DMA) included in its budget submission.

- ✓ 1. **Emergency Management Assistance Compacts.** Create two appropriations for interstate military assistance and emergency assistance to allow the receipt of funds from other states to reimburse units or members of the Wisconsin national guard or the division of emergency management to provide assistance to other states.
- ✓ 2. **Sum Sufficient for Extended Emergency Management Liabilities.** Create a GPR sum sufficient appropriation to defray the costs incurred to reimburse local government units for the costs of worker's compensation, indemnification of tort liability and the destruction of equipment as the result of emergency response efforts.
- ✓ 3. **Reimbursement for Responses to Potential Hazardous Materials Releases.** Allow an emergency response team to seek reimbursement from a responsible party where a team responded to a potential release even though no actual release occurred. Convert LRBs0150/1, Senate Substitute Amendment 1 to 1999 Senate Bill 208 as the budget draft.
- ✓ 4. **Level A Emergency Response Teams.** Modify current statutory language to remove the requirement that at least one Level A emergency response team be located in La Crosse County. Require that Level A team members shall meet the highest standards for a hazardous materials responder and that all teams have members trained in appropriate speciality areas. Require that an annual financial report be filed by each team with the adjutant general each year.
- ✓ 5. **Consolidate Appropriations within the Emergency Management Program.** Consolidate 20.465(3)(dh) Hazardous substance emergency response; administration with the general program operations appropriation of the division of emergency management, 20.465(3)(a).
- ✓ 6. **Clarification of Eligible Schools for the National Guard Tuition Grant Program.** Allow the department to authorize grants to students attending institutions that meet the U.S. Department of Education eligibility requirements for Pell Grants and other federal student assistance programs and remove language referencing schools accredited by rule of the Higher Educational Aids Board.
- ✓ 7. **Level B Teams Equipment Appropriation** Change 20.465(3)(dp) Emergency response equipment appropriation to a biennial appropriation.

Thank you for your help.

The department requests modification of a variety of statutory revisions related to its emergency management programs as outlined below:

1. Appropriation Provisions: Emergency Management Assistance Compacts

Request:

DMA requests enactment of appropriation language similar to the following:

Create the following sections:

- 20.465(1)(.) *Interstate military assistance.* All moneys received from other states and territories to reimburse pay, allowances, and other costs incurred when units or members of the Wisconsin national guard are activated in state status to provide assistance to another state in accordance with an emergency management compact pursuant to §166.30(1)(c) and §166.30(9).
- 20.465 (3)(h) *Interstate emergency assistance.* All moneys received from other states and territories to reimburse costs incurred by the division of emergency management to provide assistance to another state in accordance with an emergency management compact pursuant to §166.30(9).

Discussion:

1999 Wisconsin Act 26 authorizes the State of Wisconsin to participate in emergency assistance compacts with other states to share resources in situations that may exceed any single state's capacity to respond. Under the act, emergency management resources and the use of the Wisconsin National Guard can be provided to other states, and vice versa. Generally, the state requesting assistance is expected to reimburse contributing states for the costs incurred. The act provided no appropriation authority to receive or expend these reimbursements. (This issue arose when the State of Montana contacted the department regarding the potential deployment of certain Wisconsin National Guard personnel to Montana for firefighting purposes.) As a result of this omission, the department now requests the creation of two continuing PRO appropriations that could be used under such circumstances. The first is intended to be used when the Wisconsin National Guard renders interstate assistance, the second when emergency management or other civilian resources are used.

2. Sum Sufficient for Extended Emergency Management Liabilities

Request:

Create the following section:

- 20.465(3)(b) *Emergency management contingencies.* A sum sufficient to defray the costs incurred to reimburse local governmental units for the costs of worker's compensation, indemnification of tort liability and the destruction of equipment pursuant to §166.03(8)(f).

NOTE: A corresponding change to the statutory reference in §166.03(8)(f) would also be required.

Discussion:

§166.03(8)(f) requires the Division of Emergency Management to reimburse local units of governments for certain costs of worker's compensation, tort liability, and equipment loss that may be incurred during an emergency response. The statute provides worker's compensation and tort liability coverage to registered volunteers who engage in emergency management activities, as well as to employees of that local unit. It establishes a cap for these costs of \$1 per capita per year, and specifies that any costs above this amount are to be reimbursed by the Division of Emergency Management from its General Program Operations appropriation under s.20.465(3)(a). Funds for this purpose have never been budgeted into the cited appropriation. A serious injury suffered by a volunteer during storm clean up operations in Manitowoc County in May, 2000 resulted in a potentially significant liability for the division. As a result, emergency funding was sought from the Joint Committee on Finance via §13.10 at their July, 2000 meeting. The unpredictable and uncontrollable nature of these costs make budgeting for them on a sum certain basis nearly impossible. As a result, the department requests that a sum sufficient appropriation be created to provide funding in such circumstances. We understand that there may be other statutory provisions which affect other agencies in a similar manner. As a result, it may be more practical to create a statewide appropriation for these purposes. However, within the scope of our own budget proposal, we suggest the creation of a sum sufficient within our emergency management program to offset any further potential liabilities for the division.

3. Reimbursement for Responses to Potential Hazardous Materials Releases

Request:

Include the provisions of LRBs0150/1 (Senate Substitute Amendment 1 to 1999 Senate Bill 208)

Discussion:

The proposed legislation referenced above included a number of technical changes to §166.21 and §166.215. Current law provides that an emergency response team must seek reimbursement for costs associated with a release of hazardous material from the party responsible for that release. If the responsible party cannot be identified or is insolvent, the team may then seek reimbursement from the emergency response supplement (§20.465(3)(dr)). The bill clarified legislative intent to authorize the teams to seek reimbursement from the responsible party in cases where a team responded to a "potential release" even though no actual release occurred. (For example, an overturned tanker truck carrying hazardous materials that remains intact and does not leak). The department supported the legislation, but the Assembly did not concur prior to adjournment.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0548/1

RPN...
img

SOON

DOA:.....Uecker - Appropriation for reimbursing local governments for certain expenses regarding emergency responses

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

head STATE GOVERNMENT
sub State finance

1 AN ACT ^{DON'T GEN. CAT.} relating to: the budget.

Analysis by the Legislative Reference Bureau

Under current law, if ^{an} employee of a municipal or county emergency management organization is injured while performing emergency management activities, the municipality or county is responsible for the employee's worker's compensation benefits. Currently, if an emergency management employee is sued in tort for injuries to another as the result of the employee's emergency management activities, the municipality or county pays any damages resulting from the injuries. If the damage or destruction of government-owned equipment results from that equipment being used in an emergency management activity, the owner of that equipment is responsible for that damage or destruction. Currently, DMA reimburses the municipality or county for any of these costs incurred in a calendar year for the employe's worker's compensation benefits, the injuries to another as the result of the employee's emergency management activities, and the damage or destruction of government-owned equipment resulting from emergency management activities if those costs exceed \$1 per capita of the governmental unit's population. This reimbursement is paid out of the general program operations appropriation for the division of emergency management.

This bill creates a sum sufficient appropriation to reimburse the municipalities and counties for these costs that exceed \$1 per capita of the governmental unit's population.

(B) (D)
and local

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.465 (3) (b) of the statutes is created to read:

20.465 (3) (b) *Risk management.* A sum sufficient to reimburse local governmental units ~~under s. 166.03 (8) (f)~~ for worker's compensation benefits ~~under s. 166.03 (8) (d)~~, for indemnification of tort liability ~~under s. 166.03 (8) (d)~~, and for losses of and damage to government-owned equipment under ~~s. 166.03 (9)~~.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 166.03 (8) (f) of the statutes is amended to read:

166.03 (8) (f) If the total liability for worker's compensation benefits under par. (d), indemnification under par. (e), and loss from destruction of equipment under sub. (9), incurred in any calendar year, exceeds \$1 per capita of the sponsor's population, the state shall reimburse the sponsor for the excess. Payment shall be made from the appropriation in s. ~~20.465 (3) (a)~~ ~~20.465 (3) (a)~~ ^b on certificate of the adjutant general.

plain

History: 1971 c. 211 s. 126; 1975 c. 147 s. 54; 1975 c. 199; 1977 c. 1; 1977 c. 397; 1979 c. 361 ss. 51, 55, 112, 113; 1981 c. 20, 211; 1983 a. 27; 1985 a. 29, 31; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1993 a. 213, 251; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 247, 467; 1997 a. 27, 35, 237; 1999 a. 150 s. 672.

(END)



DOA:.....Uecker – Appropriation for reimbursing local governments for certain expenses regarding emergency responses

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ^{DON'T} _{SEN. CAT} relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

STATE FINANCE

Under current law, if an employee of a municipal or county emergency management organization is injured while performing emergency management activities, the municipality or county is responsible for the employee's worker's compensation benefits. Currently, if an emergency management employee is sued in tort for injuries to another as the result of the employee's emergency management activities, the municipality or county pays any damages resulting from the injuries. If the damage or destruction of government-owned equipment results from that equipment being used in an emergency management activity, the owner of that equipment is responsible for that damage or destruction. Currently, DMA reimburses the municipality or county for any of these costs incurred in a calendar year for the employee's worker's compensation benefits, the injuries to another as the result of the employee's emergency management activities, and the damage or destruction of government-owned equipment resulting from emergency management activities if those costs exceed \$1 per capita of the governmental unit's population. This reimbursement is paid out of the general program operations appropriation for the division of emergency management.

requires the reimbursement to come from a
 This bill ~~creates a sum sufficient appropriation to reimburse the municipalities~~
 and counties for these costs that exceed \$1 per capita of the governmental unit's
 population. *a sum sufficient program supplement*

For further information see the *state and local* fiscal estimate, which will be
 printed as an appendix to this bill. *account*

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ~~SECTION 1. 20.465 (3) (b) of the statutes is created to read:~~

2 ~~20.465 (3) (b) Risk management. A sum sufficient to reimburse local~~
 3 ~~governmental units for worker's compensation benefits, for indemnification of tort~~
 4 ~~liability, and for losses of and damage to government-owned equipment under s.~~
 5 ~~166.03 (8) (f).~~

*Insert 5
2-5*

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 SECTION 2. 166.03 (8) (f) of the statutes is amended to read:

7 166.03 (8) (f) If the total liability for worker's compensation benefits under par.
 8 (d), indemnification under par. (e), and loss from destruction of equipment under sub.
 9 (9), incurred in any calendar year, exceeds \$1 per capita of the sponsor's population,
 10 the state shall reimburse the sponsor for the excess. Payment shall be made from
 11 the appropriation in s. ~~20.465 (3) (a)~~ *20.865 (1) (a)* on certificate of the adjutant general.

(END)

plain

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0548/2ins
RPN:kmg:pg

1 insert 2-5:

2 SECTION 1. 20.865 (1) (a) of the statutes is amended to read:

3 20.865 (1) (a) Judgments, worker's compensation, indemnification, and legal
4 expenses. A sum sufficient to pay for legal expenses under s. 59.32 (3), for costs under
5 ss. 227.485 and 814.245, and for the costs of judgments, orders, and settlements of
6 actions, appeals, and complaints under subch. II of ch. 111 or subch. II or III of ch. 230,
7 and those judgments, awards, orders, worker's compensation benefits,
8 idemnification, and settlements under ss. 21.13, 165.25 (6), 166.03 (8) (f), 775.04, and
9 895.46 that are not otherwise reimbursable as liability costs under par. (fm). Release
10 of moneys under this paragraph pursuant to any settlement agreement, whether or
11 not incorporated into an order, is subject to approval of the attorney general.

History: 1971 c. 125; 1971 c. 270 ss. 94, 95, 104; 1973 c. 90, 117, 151; 1973 c. 243 s. 82; 1973 c. 333; Sup. Ct. Order, 67 Wis. 2d 773 (1975); 1975 c. 39; 1975 c. 41 s. 52; 1975 c. 81, 224; 1977 c. 29, 44; 1977 c. 196 ss. 130 (8), 131; 1977 c. 203; 1977 c. 272 s. 98; 1977 c. 273, 344; 1977 c. 418 ss. 175d to 178, 929 (1); 1979 c. 32 s. 92 (5); 1979 c. 34 ss. 631b, 631d, 631f, 631h, 667 to 675; 1979 c. 48, 126, 221; 1981 c. 20, 96, 314, 317, 391; 1983 a. 27 ss. 498 to 526, 2204 (57) (b); 1983 a. 36; 1983 a. 191 s. 6; 1983 a. 192, 409; 1985 a. 29, 42, 52, 111; 1985 a. 182 s. 57; 1987 a. 27, 378; 1987 a. 403 ss. 28, 256; 1989 a. 31, 39, 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201, 227, 400, 445; 1997 a. 27, 35, 41, 237; 1999 a. 9.

Nelson, Robert P.

From: Uecker, Deborah
Sent: Tuesday, October 17, 2000 4:10 PM
To: Nelson, Robert P.
Subject: Modification to 0548/1 (Removing liability from DMA to a GPR sum sufficient)

Bob, please modify this draft to move the liability to s. 20.865(1)(a) Legal judgments and expenses. We don't want DMA to have their own GPR sum sufficient for this purpose.

Deborah A. Uecker

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Department of Administration
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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0548/2
RPN:kmg:km

DOA:.....Uecker – Appropriation for reimbursing local governments for certain expenses regarding emergency responses

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

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STATE FINANCE

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