



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #501

### State Disaster Assistance Program (Military Affairs)

[LFB 2019-21 Budget Summary: Page 286, #3]

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#### CURRENT LAW

The state disaster assistance program, created in 2005 Act 269, provides reimbursements to local units of government for governmental damages and costs incurred as the result of a "major catastrophe." A "major catastrophe" is defined as a disaster, including a drought, earthquake, flood, high water, high wind, hurricane, landslide, mudslide, snowstorm, or tornado, that resulted in the Governor requesting a presidential declaration of a major disaster under federal law. In 2018-19, for example, DMA has provided assistance relating to a tornado in Northwestern Wisconsin, floods in Southeastern Wisconsin, and an ice storm in Iron County.

#### GOVERNOR

Provide one-time funding of \$1,000,000 SEG in 2019-20 and \$1,000,000 SEG in 2020-21 to the Washington Island Electric Cooperative utility from the state disaster assistance program for costs related to the replacement of the cable that brings electricity to Washington Island. Funding would be provided from the petroleum inspection fund.

#### DISCUSSION POINTS

1. The following table identifies amounts that have been expended under the state disaster assistance program for the last twelve fiscal years. Annual expenditures have ranged from a low of \$204,500 in 2008-09 to a high of \$2,559,400 in 2011-12.

## State Disaster Assistance Program Expenditure History

<u>Fiscal Year</u>	<u>Expenditures</u>
2007-08	\$268,900
2008-09	204,500
2009-10	378,300
2010-11	517,500
2011-12	2,559,400
2012-13	618,000
2013-14	517,600
2014-15	705,400
2015-16	424,100
2016-17	364,900
2017-18	1,405,100
2018-19*	1,808,500

\*As of May 1, 2019

2. For 2018-19, the SEG continuing state disaster assistance appropriation had an available balance of \$799,700 SEG (\$711,200 appropriated plus a balance of \$88,500 carried over from 2017-18). On February 7, 2019, under s. 13.10 of the statutes, the Committee approved DMA's request for a one-time transfer of \$2,000,000 SEG in expenditure authority in 2018-19, funded from the petroleum inspection fund (PIF), to provide additional funding for the state disaster assistance program. As of May 1, 2019, the available balance of the continuing appropriation was \$991,200.

3. Revenue for the request would be provided from PIF. Petroleum inspection fund revenue is primarily generated from a 2¢ per gallon (including gasoline, diesel and heating oil) petroleum inspection fee, which generated \$79.7 million in 2017-18. Programs supported by PIF include the petroleum environmental cleanup fund award program, petroleum tank and inspection programs, contaminated land cleanup and air management programs, and transportation programs. Under 2017 Act 59, beginning on June 30, 2020, the unencumbered balance of PIF is required to be transferred to the transportation fund, except for an amount equal to not less than 5% of the gross revenues received during the fiscal year in which the transfer is made. Under the bill as introduced, PIF will have a June 30, 2021, balance of approximately \$3.9 million. This would include transfer of an estimated \$52.8 million in 2019-20 and \$46.3 million in 2020-21 from the unencumbered balance of PIF to the transportation fund. If the Governor's recommendation, to provide \$1,000,000 annually for disaster assistance, is not approved, the transfer from PIF to the transportation fund would increase by a corresponding \$1,000,000 in each year of the 2019-21 biennium.

4. Under administrative rules issued by DMA, payments may be made under the program to local governmental units if all of the following eligibility criteria are satisfied: (a) the local governmental unit has suffered a "major catastrophe"; (b) a disaster or emergency declaration was issued by the local governmental unit or the state during the incident period of the "major catastrophe"; (c) the damages suffered and eligible costs incurred are the direct result of a "major catastrophe"; (d) federal disaster assistance is not available for that "major catastrophe" because the Governor's request

that the President declare the catastrophe a major disaster has been denied or where no federal assistance is requested because the "major catastrophe" does not meet the statewide or countywide per capita impact indicator under the public assistance program guidelines issued by the Federal Emergency Management Agency (FEMA); (e) at least one local governmental unit within the county or a tribal governmental unit has incurred public assistance costs that equal or exceed the countywide per capita impact indicator under the public assistance program guidelines issued by FEMA (only local units of government that reach this threshold will be eligible for assistance); and (f) the local governmental unit will contribute at least 30% of the total amount of eligible costs incurred from the "major catastrophe" from other funding sources.

5. On June 15, 2018, a damaged underwater electrical cable caused a long-term power outage on Washington Island in Door County. On July 13, 2018, the Governor issued Executive Order #298, declaring a state of emergency in response to the power failure. It was determined that the cable failed due to damage from ice shoves earlier in the year. The Washington Island Electric Cooperative made initial repairs at a cost of \$850,000. Door County submitted a corresponding disaster assistance fund application on behalf of the Cooperative to receive reimbursement for 70% of costs incurred. The Department indicates that the application has "gone through a cursory review" and that a request for additional information will be sent to Door County and the Cooperative before funding is approved. The Cooperative indicates that the repairs were a temporary solution and the next step will be replacement of the cable.

6. The Committee could decide to approve the Governor's recommendation to require that DMA pay the Washington Island Electric Cooperative utility up to \$1,000,000 SEG in 2019-20 and \$1,000,000 SEG in 2020-21 for costs incurred for disaster relief. The bill would also require the Cooperative to pay 30% of the reasonable and necessary costs of the relief project. Based on a review of the petroleum inspection fund, a sufficient balance exists to support the Governor's recommendation. [Alternative 1]

7. However, the Department may not have the authority to provide funds to the Cooperative as provided in the bill. Under current law, only local units of government are eligible to apply for the state disaster assistance program. The Department indicates that utility companies currently coordinate with county governments to receive reimbursement for public assistance costs incurred as a result of catastrophes. To allow the Cooperative to receive reimbursements directly, as provided under the bill, the Committee could modify program eligibility to specify that the Washington Island Electric Cooperative utility may apply for assistance. The Committee could further provide that the provision sunset on June 30, 2021, to reduce statutory redundancies once the cable replacement project is completed. [Alternative 2a]

8. It should be noted that DMA provided assistance directly to electric cooperatives prior to January, 2018, when the program's administrative plan was updated to reflect the term "local governmental unit" under state statutes defining program eligibility. It could be argued that allowing electric cooperatives to apply directly could create efficiencies by allowing the state to directly reimburse the entity that incurred the cost associated with disaster recovery. The Committee could therefore modify statute to specify that retail electric cooperatives in Wisconsin may apply directly for reimbursement of public assistance costs incurred as the result of a major catastrophe. [Alternative

2b] It should be noted that, under this alternative, DMA indicates it may not have the position or expenditure authority to review and process an increase in applications.

9. On the other hand, the Department indicates that the current application process is intended to create administrative efficiencies by allowing the county to serve as the point of contact for the state. Under current program rules, each county is required to submit an initial damage estimate within 30 days of the event and to submit an application for assistance within 60 days of the event. The application includes costs incurred by various organizations throughout the county, including other local units of government and utility cooperatives. The Department indicates that processing one application per county facilitates the timely processing of applications after a disaster. Therefore, the Committee could instead modify the bill to specify that funds be provided to Door County, rather than the Cooperative, to fund the project within current eligibility guidelines. [Alternative 2c]

10. Previously, the Legislature has allocated funding to DMA's continuing SEG appropriation for disaster assistance without specifying that funds be used for specific projects. Under current law, DMA determines how to allocate available funds based on program requirements and grant applications that are received. The administration indicates it was the "Governor's decision to recommend providing funding for this project" rather than providing funds to the disaster assistance appropriation without specifying a recipient.

11. The Department indicates that it has not yet received an application for assistance with replacing the Washington Island cable. Additionally, the administration indicates that cost estimates for replacing the cable are not yet finalized. If the application is not submitted, or if the state-share of the project costs less than the administration's estimate, appropriated funds would remain in DMA's continuing appropriation for disaster assistance. Given language in the bill specifying that funds are intended for the Washington Island Electric Cooperative, DMA may not be able to reallocate unused amounts to other applicants of the disaster assistance program. As a continuing appropriation, any amounts appropriated do not lapse back to the petroleum inspection fund at the end of the fiscal year, but instead remain in the appropriation until expended.

12. Given the precedent of providing funds to the continuing appropriation without specifying a recipient, and that the cost estimate for the cable replacement is not yet complete, the Committee could instead decide to: (a) provide one-time funding of \$2,000,000 SEG to the state disaster assistance fund (\$1,000,000 in 2019-20 and \$1,000,000 in 2020-21); and (b) delete language specifying that funds be provided to the Cooperative, such that DMA may decide how to allocate funds between eligible applicants. As a one-time increase in funding, this alternative would not affect the program's base budget, which would remain \$711,200 per year during the 2021-23 biennium. However, as a continuing appropriation, DMA would be authorized to spend amounts beyond what is appropriated without legislative approval, based on available cash balances. [Alternative 3a]

13. It should be noted that any monies provided to the state disaster assistance fund would decrease the amount available for other programs that receive PIF funds, including the transportation fund. Given the impact of the provision on the balance of PIF and the program's available balance, the Committee could instead decide to provide one-time funding of \$1,000,000 SEG to the state disaster assistance fund (\$500,000 in 2019-20 and \$500,000 in 2020-21). [Alternative 3b]

14. Alternatively, the Committee could take no action. [Alternative 4] It could be argued that there is insufficient information to support the recommendation at this time, given that the cost estimate for the project is not yet complete and that no application for funding has been received. Further, it could be argued that providing funds for this project would be beyond the scope of the current program because it would fund a utility project rather than a disaster recovery. If future applications require that additional funding for the disaster assistance fund be provided, DMA could, as it has previously, request additional funds under s. 13.10 of the statutes and provide further details regarding project costs at that time.

**ALTERNATIVES**

1. Approve the Governor's recommendation to provide one-time payments of \$1,000,000 SEG in 2019-20 and \$1,000,000 SEG in 2020-21 to the Washington Island Electric Cooperative utility from the state disaster assistance program. Funding would be provided from the petroleum inspection fund.

ALT 1	Change to	
	Base	Bill
SEG	\$2,000,000	\$0

2. Modify the recommendations as follows:

a. Specify that the Washington Island Electric Cooperative utility may apply directly for the state disaster assistance fund. Sunset this provision on June 30, 2021.

b. Specify that retail electric cooperatives in Wisconsin may submit applications for the state disaster assistance fund.

c. Specify that DMA pay Door County, rather than the Washington Island Electric Cooperative utility.

3. Provide one-time payments of:

a. \$1,000,000 SEG in 2019-20 and \$1,000,000 SEG in 2020-21 to the state disaster assistance program. Funding would be provided from the petroleum inspection fund. Delete provisions specifying that funding must be allocated to the Washington Island Electric Cooperative utility.

ALT 3a	Change to	
	Base	Bill
SEG	\$2,000,000	\$0

b. \$500,000 SEG in 2019-20 and \$500,000 SEG in 2020-21 to the state disaster assistance program. Funding would be provided from the petroleum inspection fund. Delete provisions specifying that funding must be allocated to the Washington Island Electric Cooperative utility.

<b>ALT 3b</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
SEG	\$1,000,000	- \$1,000,000

4. Take no action.

<b>ALT 4</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
SEG	\$0	- \$2,000,000

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