



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #610

### **Reimbursement of Certain County and Municipal Worker's Compensation And Liability Costs Due to Emergency Management Activities (Military Affairs -- Emergency Government)**

[LFB 2001-03 Budget Summary: Page 454, #3]

#### **CURRENT LAW**

Under s. 166.03(8) of the statutes, county, municipal and volunteer emergency management workers are considered employees of the local emergency management agency with which they are attached. These individuals are eligible for worker's compensation benefits, are indemnified against tort liability to third persons incurred in the performance of emergency management activities and are held harmless for the costs of damaging government-owned equipment used in the performance of their duties.

The statutes also limit the total liability of the emergency management agency's sponsoring municipality or county for any of the above costs to not more than \$1 per capita during any calendar year based on the sponsoring jurisdiction's population. The statutes further require the Department of Military Affairs (DMA) to reimburse the sponsoring jurisdiction for the excess costs above this \$1 per capita limit. The payment is required to be made from the agency's Division of Emergency Government general program operations appropriation. Base level funding in this appropriation is \$580,600 GPR annually.

#### **GOVERNOR**

Modify the source of funding for reimbursements of worker's compensation benefits, awards for injuries to others and losses from the destruction of equipment incurred by employees or volunteers with a county or municipality that is engaged in emergency management activities. Specify that if the total amount of such costs and liabilities exceeds \$1 per capita for the jurisdiction's population, the state would reimburse the county or municipality from an existing Program Supplements GPR-funded sum sufficient appropriation for the payment of judgments

against the state and its officers, rather than from the Division of Emergency Management's GPR-funded sum certain general program operations appropriation. Modify the statutory purposes of the Program Supplements sum sufficient appropriation to authorize payments for these emergency management-related costs. No funding adjustments would be made to either of these appropriation as a result of these proposed modifications.

## **DISCUSSION POINTS**

1. Funds to reimburse municipal or county jurisdictions for the excess costs of injuries, tort liability coverage or damage to government-owned equipment for employees or volunteers engaged in emergency management activities have never been budgeted under the Division of Emergency Management's general program operations appropriation.

2. The principal reason that such funds have not been budgeted is that the state has almost never been required to make such a payment to reimburse a county or municipality for such costs. The only recent instance occurred in Manitowoc County during the spring of 2000, when an emergency management volunteer suffered a serious injury during storm clean-up operations. The Division subsequently became exposed to a potentially significant worker's compensation liability.

3. As a result, DMA sought an emergency supplement at this Committee's July 12, 2000, meeting under s. 13.10. Through a variety of appropriations transfers and supplementations, the Committee provided the Division with \$215,399 GPR in 2000-01 to fund the potential worker's compensation liability. Ultimately, less than \$110,000 GPR was actually needed in worker's compensation payments by the Division.

4. The Department argues that the unpredictable and uncontrollable nature of these costs make budgeting for them under a GPR sum certain appropriation nearly impossible. Consequently the agency requested, and the Governor recommended, that these types of expenditures be made from a GPR sum sufficient appropriation, in this case, the Program Supplements appropriation for the payment of judgments against the state and its officers. The agency would then not have to commit any of the Division of Emergency Government's general program operations funding for these purposes or request additional supplements from this Committee. If the Committee believes that this revised funding mechanism has merit, it could approve the Governor's recommendation.

5. However, in light of the scarcity of GPR funds in the current budget cycle, the Committee may want to consider whether or not it wishes to establish a mechanism under which occasional, but potentially significant, liabilities could be charged to a sum sufficient appropriation and be paid automatically to the full extent of that liability.

6. Inasmuch as the types of events that would trigger a payment from GPR funds are quite infrequent (the agency notes only one instance in recent years), the Committee may conclude that it would be preferable to address each future instance on a case-by-case basis under current law procedures.

7. Thus, if the Division of Emergency Government's general program operations appropriation would be unable to fund a future reimbursement claim, the Department would continue to have the option to request a combination of appropriations transfers and supplementations by the Committee to address this type of infrequent funding need.

## **ALTERNATIVES**

1. Approve the Governor's recommendation to fund reimbursements of worker's compensation benefits, awards for injuries to others and government-owned equipment losses incurred by county or municipal employees or volunteers engaged in emergency management activities from a GPR-funded Program Supplements sum sufficient appropriation for the payment of judgments against the state, rather than from the Division of Emergency Management's GPR-funded sum certain general program operations appropriation.

2. Maintain current law.

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