



Legislative Fiscal Bureau

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May 31, 2022

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Military Affairs: Section 13.10 Request to Provide Additional Funding to the Wisconsin Disaster Fund -- Agenda Item VI

REQUEST

The Department of Military Affairs (DMA) requests a one-time transfer of \$2,288,900 SEG in expenditure authority (\$1,539,700 in 2021-22 and \$749,200 in 2022-23) from the Joint Committee on Finance's SEG sum sufficient general program supplementation appropriation [s. 20.865(4)(u)] to DMA's SEG continuing state disaster assistance appropriation [s. 20.465(3)(s)] to provide additional funding for the state disaster assistance program. Funding would be provided from the petroleum inspection fund (PIF). [Note that the request inadvertently double counted approximately \$3,700 of claims in process. The request in 2021-22 is, therefore, revised to \$1,536,000 SEG.]

BACKGROUND

State Disaster Assistance Program. The state disaster assistance program, created in 2005 Act 269, makes payments to local units of government and retail electric cooperatives for governmental costs, such as debris clearance, protective measures, and damage to roads and bridges, incurred as the result of a "major catastrophe." A major catastrophe is defined as a disaster, including a drought, flood, 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 2021-22, for example, DMA provided assistance for flooding and severe thunderstorms events in Clark, Manitowoc, and Wood Counties, and for flooding, tornado, wind damage, and severe thunderstorm events in east central Wisconsin, southeastern Wisconsin, southwestern Wisconsin, and west central Wisconsin.

Under administrative rule, local governmental units may be reimbursed if 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 event; (c) the damages suffered and eligible costs incurred are the direct result of the event; (d) federal disaster assistance is not available because the Governor's request that the President declare the catastrophe a major disaster has been denied or no federal assistance is requested because the event does not meet the per capita impact indicator issued by the Federal Emergency Management Agency (FEMA); (e) at least one local governmental unit or a tribal governmental unit within the county has incurred public assistance costs that exceed the per capita impact indicator under the public assistance program guidelines issued by FEMA; and (f) the local governmental unit will contribute at least 30% of the total amount of eligible costs incurred from other funding sources. [Note that (b) above is removed under an emergency rule currently in effect and under a proposed permanent rule modification currently in the rule making process.]

Two appropriations authorize DMA to provide disaster assistance. A state disaster assistance GPR appropriation is funded at \$0 annually during the 2021-23 biennium. Since its creation in Act 269, the Legislature has not used this appropriation to provide funds. Further, DMA has a SEG continuing state disaster assistance appropriation supported by PIF. As a continuing appropriation, any amounts appropriated do not lapse back to PIF at the end of a fiscal year, but remain in the DMA appropriation until expended. Table 1 below shows expenditure authority under the SEG disaster assistance fund appropriation since 2010-11.

TABLE 1

State Disaster Assistance Program Expenditure Authority

<u>Fiscal Year</u>	<u>Expenditure Authority</u>
2010-11	\$1,000,000
2011-12*	2,000,000
2012-13*	1,000,000
2013-14	257,900
2014-15	711,200
2015-16	711,200
2016-17	711,200
2017-18	711,200
2018-19*	2,711,200
2019-20* **	3,321,000
2020-21**	1,711,200
2021-22	711,200
2022-23	711,200

* In addition to amounts appropriated during the biennial budget process, expenditure authority includes amounts authorized by the Joint Committee on Finance under s. 13.10 of the statutes (\$1.0 million in 2011-12, \$1.0 million in 2012-13, \$2.0 million in 2018-19, and \$1.6 million in 2019-20).

** Under 2019 Act 9, the appropriation was provided one-time expenditure authority of \$2.0 million SEG (\$1.0 million annually) during the 2019-21 biennium to replace the underwater cable that brings electricity to Washington Island. Therefore, expenditure authority includes \$2.0 million that may not be utilized for other projects.

Table 2 identifies amounts that have been expended under the state disaster assistance program for the last 12 fiscal years. Expenditures in 2019-20 and 2020-21 include \$1 million SEG annually for Washington Island. Annual expenditures have ranged from a low of \$364,900 in 2016-17 to a high of \$2,765,700 in 2018-19.

TABLE 2

State Disaster Assistance Program Expenditure History

<u>Fiscal Year</u>	<u>Expenditures</u>
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	2,765,700
2019-20	2,501,200
2020-21	2,289,800
2021-22*	983,800

*As of April 11, 2022

For 2021-22, the SEG continuing state disaster assistance appropriation has an available balance of \$986,300 SEG (\$711,200 plus a balance of \$275,100 carried over from 2020-21). The Department indicates that it has expended \$983,800 since July, 2021, resulting in a current balance of \$2,500. As of April 11, 2022, paid and approved claims from other projects submitted in 2021-22 total \$1,131,300, as shown in Table 3. The table also identifies claims under review for which payment is anticipated and claims that have been received with an estimate of damages. Claims in this latter category are more recent and will require more review by DMA staff prior to final approval for payment.

TABLE 3**Disaster Assistance Program Payments 2021-22**

County	Claim Status					Total
	Paid	Approved	Under Review, Payment Anticipated	Received from County with Notification Estimate		
Chippewa	\$0	\$0	\$38,900	\$0		\$38,900
Clark	114,700	120,400	0	0		235,100
Columbia	2,500	0	0	0		2,500
Crawford	68,500	0	0	0		68,500
Dane	0	0	0	627,300		627,300
Douglas	4,800	0	0	0		4,800
Fond du Lac	127,600	27,100	0	0		154,700
Iron	6,000	0	0	0		6,000
Jackson	73,500	0	0	0		73,500
La Crosse	41,000	0	0	0		41,000
Lafayette	59,400	0	0	0		59,400
Langlade	4,200	0	0	0		4,200
Lincoln	59,000	0	0	0		59,000
Manitowoc	8,100	0	0	0		8,100
Marathon	47,300	0	0	0		47,300
Marinette	2,200	0	0	0		2,200
Price	0	0	39,100	0		39,100
Sawyer	0	0	0	63,000		63,000
St Croix	78,800	0	0	0		78,800
Vernon	13,200	0	0	0		13,200
Vilas	110,400	0	28,700	0		139,100
Waushara	13,600	0	0	0		13,600
Winnebago	117,800	0	0	0		117,800
Wood	31,200	0	0	0		31,200
Total	\$983,800	\$147,500	\$106,700	\$690,300		\$1,928,300

For 2022-23, DMA indicates that there are total claims under review with payments anticipated in 2022-23 of \$960,400 as follows: (a) Iron County, \$117,100; (b) La Crosse County, \$621,500; (c) Monroe County, \$167,700; (d) Vernon County, \$40,100; and (e) Wood County, \$14,000.

Funding for the SEG disaster assistance appropriation is provided from the PIF. Petroleum inspection fund revenue is primarily generated from a 2¢ per gallon (including gasoline, diesel, and heating oil) petroleum inspection fee, which generated \$71.6 million in 2020-21. Under current law, 1¢ of the 2¢ fee is deposited directly in the transportation fund. In addition, the unencumbered balance of the PIF as of each June 30 is required to be transferred to the transportation fund, except for an amount equal to not less than 5% of the gross PIF revenues received during the fiscal year. Total deposits to the transportation fund under these provisions are budgeted at \$53.6 million in 2021-22 and at \$55.3 million in 2022-23 under 2021 Act 58. (These amounts do not include other annual appropriations from the PIF to the transportation fund or Department of Transportation

(DOT) programs.) Programs supported by PIF include petroleum tank and inspection programs, and contaminated land cleanup and air management programs.

Additional Sources of Disaster Assistance. In addition to the DMA disaster assistance program, communities may be eligible to receive assistance from DOT or FEMA. Applications are reviewed by DMA to determine if they qualify for DOT's disaster damage aid program or FEMA assistance before they receive funds through DMA. To the extent other funds become available, costs to DMA over the biennium for claims currently pending review (\$797,100 in 2021-22 and \$960,400 in 2022-23) could be reduced. Note that DMA funds are awarded on a project-basis, and counties cannot apply for multiple fund sources to cover costs associated with a single project.

The DOT disaster damage aid program, which aids local governments for road-related disaster costs, receives funding through two sum-sufficient appropriations: a transportation fund-supported (SEG) appropriation and a general fund-supported (GPR) appropriation. The SEG-supported appropriation is estimated at \$1.0 million each year. Expenditures from the SEG-supported appropriation may not exceed \$1.0 million for a single disaster without the Governor's approval. Each year, individual disasters with road damages below this \$1.0 million threshold are also paid with SEG. If the expenditures for smaller disasters collectively exceed the estimated amount, the program's sum-sufficient appropriation draws on the transportation fund to cover costs. For individual disasters exceeding \$1.0 million, the Governor may approve the transfer of GPR to the transportation fund for the costs exceeding the \$1.0 million threshold. These GPR transfers may only be made in the second fiscal year of each biennium. In 2020-21, no funds were transferred from the disaster damage-related, GPR appropriation to the transportation fund.

According to DMA, 77% of damages reported in 2020-21, and 35% of damage reports year-to-date in 2021-22 were attributable to road damage. Military Affairs staff indicate that it is not clear at this time how much of this road damage may be compensated under the DOT disaster damage aids program and how much may be reimbursed by DMA.

Additionally, funding from FEMA may reduce the amount of repairs funded by DMA. FEMA's public assistance program provides reimbursement for projects submitted by counties, cities, townships, and not-for-profit organizations for events that receive a federal disaster declaration. Eligible projects include repairs to roads and bridges and costs for debris removal. Under the program, FEMA provides 75% reimbursement of eligible costs, while the state and local agencies share the remaining 25% equally.

Since 2018-19, three events in Wisconsin have resulted in federal disaster assistance. In October, 2018, the President approved a declaration for severe storms in August and September, 2018, which resulted in estimated damage to public infrastructure of \$50.2 million. In August, 2019, the President approved a declaration for straight-line winds, severe storms, and flooding in July, 2019, which resulted in estimated damage to public infrastructure of \$21.7 million. In March, 2020, the President approved a declaration for a severe winter storm and flooding along Lake Michigan, which resulted in estimated damage to public infrastructure of \$10 million.

ANALYSIS

To provide funding for approved claims in excess of available balances and to assist with additional disasters during the 2021-23 biennium, DMA is requesting that the Committee transfer \$1,536,000 SEG in 2021-22 and \$749,200 SEG in 2022-23 from the petroleum inspection fund to the state disaster assistance appropriation. Based on a review of PIF, a sufficient balance exists to support the request. Approving the request would reduce the amount available for the scheduled transfer of the fund's balance to the transportation fund in in the 2021-23 biennium by \$2,285,200.

Year-to-date petroleum inspection fee collections indicate that 2021-22 revenues would be expected to exceed estimates in Act 58. It is estimated at this time that appropriating the funds requested for 2021-22 would have minimal or no impact on the expected petroleum inspection fund transfer to the transportation fund under Act 58 for the 2021-22 fiscal year. Continued strength in petroleum inspection fee revenues could offset additional disaster aids funding in 2022-23. Conversely, continued increases in fuel prices could moderate demand over the remainder of the biennium and negatively affect the current trajectory of petroleum inspection fee revenues and transfers in 2022-23.

The Department's request for 2021-22 is identified in Table 4. Through April 11, 2022, the disaster assistance program had expenditures of \$983,800, pending claims of \$147,500, claims under review with payment anticipated of \$106,700, and an available balance of \$2,500. Based on initial damage estimates from counties that have not yet submitted applications, the Department estimates that it will receive \$690,300 in additional claims this fiscal year. In addition, DMA has received a preliminary estimate resulting from March, 2022, ice damage in Marinette County (\$94,000) and projects that \$500,000 a year in new claims may occur in 2021-22 and 2022-23 based on prior claims activities.

TABLE 4

2021-22 Estimated Supplemental Funding Need*

Chapter 20 Appropriation	\$711,200
Opening Balance	<u>275,100</u>
Total Budget Authority	\$986,300
Expenditures	\$983,800
Estimated Balance Remaining	\$2,500
Approved Claims Pending Payment	\$147,500
Submitted Claims Pending Review	106,700
Estimated Future Applications (Based on Initial Damage Estimates)	690,300
Future Disaster Funding	<u>594,000</u>
Total Estimated Claims	\$1,538,500
Total s. 13.10 Request	\$1,536,000

*As of April 11, 2022

The Department's request for 2022-23 is identified in Table 5. Estimated expenditures (pending claims, and future disasters) total \$1,460,400 in 2022-23, while budgetary authority totals \$711,200.

TABLE 5

2022-23 Estimated Supplemental Funding Need*

Chapter 20 Appropriation	\$711,200
Opening Balance	<u>0</u>
Total Budget Authority	\$711,200
Approved Claims Pending Payment	\$0
Submitted Claims Pending Review	960,400
Estimate for Future Disasters	<u>500,000</u>
Total Estimated Claims	\$1,460,400
Total s. 13.10 Request	\$749,200

* As of April 11, 2022

The Committee could conclude that the SEG state disaster assistance appropriation is insufficient to accomplish the purpose for which it was made (the supplementation of local government disaster expenses). As a result, the Committee could provide \$1,536,000 SEG in 2021-22 and \$749,200 SEG in 2022-23 to the DMA SEG continuing disaster assistance appropriation from the petroleum inspection fund. If the entire amount is not expended during the 2021-23 biennium, residual amounts would remain in DMA's continuing appropriation and would be available for future disaster assistance. [Alternative 1]

Alternatively, the Committee could fund only claims submitted as of April 11, 2022. Under this alternative, a one-time increase of \$1,191,200 SEG in 2021-22 (\$942,000 SEG attributable to 2021-22 and \$249,200 SEG attributable 2022-23) could be provided from petroleum inspection fund revenues (\$1,904,900 in submitted claims minus \$713,700 in available balances). The Department could return to the Committee with an additional supplementation request when information is available as to damages resulting from future disasters, such as winter storms and spring floods. [Alternative 2]

It is anticipated the PIF has sufficient revenues and balances to support either Alternative 1 or 2. Expected increases in petroleum inspection fee revenues may offset most or all of the amount by which disaster aids expenditure increases under either alternative in 2021-22 would otherwise reduce petroleum inspection fee transfers to the transportation fund. Any similar offset in 2022-23, by which budgeted transfers from PIF to the transportation fund would be unaffected by increased expenditures from PIF, would be dependent on sufficiently high PIF revenues in 2022-23.

If the request is not approved, DMA administrative rules for the state disaster assistance program provide for the proration of damage claims if available balances are insufficient to fully fund all claims. Since administrative rules specifically address this eventuality, the Committee could

deny the request. Under this alternative, DMA would prorate the available funding to eligible claimants. [Alternative 3]

ALTERNATIVES

1. Approve the DMA request to transfer \$1,536,000 SEG in 2021-22 and \$749,200 SEG in 2022-23 from the Joint Committee on Finance's SEG sum sufficient general program supplementation appropriation [s. 20.865(4)(u)] to DMA's SEG continuing state disaster assistance appropriation [s. 20.465(3)(s)] to provide increased expenditure authority for the state disaster assistance program. Funding would be provided from the petroleum inspection fund.

2. Provide \$1,191,200 SEG in 2021-22 on a one-time basis from the Joint Committee on Finance's SEG sum sufficient general program supplementation appropriation [s. 20.865(4)(u)] to DMA's SEG continuing state disaster assistance appropriation [s. 20.465(3)(s)] to provide increased expenditure authority for the state disaster assistance program. Funding would be provided from the petroleum inspection fund.

3. Deny the request.

Prepared by: Jere Bauer