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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 1. GENERAL [8000 - 8899.95] (Division 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 7.5. California Disaster Assistance Act [8680 - 8692] (Heading of Chapter 7.5 amended by Stats. 2005, Ch. 158, Sec. 3.2.)

ARTICLE 4. Allocations to Local Agencies [8685 - 8687.9] (Article 4 added by Stats. 1974, Ch. 290.)

8685. From any moneys appropriated for that purpose, and subject to the conditions specified in this article, the director shall allocate funds to meet the cost of any one or more projects as defined in Section 8680.4. Applications by school districts shall be submitted to the Superintendent of Public Instruction for review and approval, in accordance with instructions or regulations developed by the Office of Emergency Services, prior to the allocation of funds by the director.

Moneys appropriated for the purposes of this chapter may be used to provide financial assistance for the following local agency and state costs:

- (a) Local agency personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, excluding the normal hourly wage costs of employees engaged in emergency work activities.
- (b) To repair, restore, reconstruct, or replace facilities belonging to local agencies damaged as a result of disasters as defined in Section 8680.3. Mitigation measures performed pursuant to subdivision (b) of Section 8686.4 shall qualify for funding pursuant to this chapter.
- (c) Matching fund assistance for cost sharing required under federal disaster assistance programs, as otherwise eligible under this act.
- (d) Indirect administrative costs and any other assistance deemed necessary by the director.
- (e) Necessary and required site preparation costs for mobilehomes, travel trailers, and other manufactured housing units provided and operated by the Federal Emergency Management Agency.

(Amended by Stats. 2013, Ch. 352, Sec. 191. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8685.2. An allocation may be made to a local agency for a project when, within 10 days after the actual occurrence of a disaster, the local agency has proclaimed a local emergency and that proclamation is acceptable to the director or upon the order of the Governor when a state of emergency proclamation has been issued, and if the Legislature has appropriated money for allocation for purposes of this chapter.

(Amended by Stats. 2013, Ch. 352, Sec. 192. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8685.4. A local agency shall make application to the director for state financial assistance within 60 days after the date of the proclamation of a local emergency. The director may extend the time for this filing only under unusual circumstances. No financial aid shall be provided until a state agency, upon the request of the director, has first investigated and reported upon the proposed work, has estimated the cost of the work, and has filed its report with the director within 60 days from the date the local agency made application, unless the director extends the time because of unusual circumstances. The estimate of cost of the work may include expenditures made by the local agency for the work prior to the making of the estimate. If the reporting state agency fails to report its findings within the 60-day period, and time is not extended by the director, the director may complete the investigation and recover a proportionate amount allocated to the state agency for the balance of the investigation. "Unusual circumstances," as used above, are unavoidable delays that result from recurrence of a disaster, prolonged severe weather within a one-year period, or other conditions beyond the control of the applicant. Delays resulting from administrative procedures are not unusual circumstances which warrant extensions of time.

(Amended by Stats. 2013, Ch. 352, Sec. 193. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8685.6. No money shall be allocated for a project until the local agency has indicated in writing its acceptance of the project proposal and the cost-sharing related thereto in such form as the director prescribes. The project proposal shall provide for the performance of the work by the local agency, or by the state agency in whose area of responsibility such work falls, if the local agency and such state agency determine that the work should be performed by the state agency. The project proposal shall also provide for the methods of handling the funds allocated and the matching funds provided by the local agency. It shall also contain such other provisions as are deemed necessary to assure completion of the work included in the project and the proper expenditure of funds as provided herein.

(Amended by Stats. 2013, Ch. 352, Sec. 194. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8685.7. Any work performed by a state agency at the request of a local agency shall be agreed upon in writing and be subject to the State Contract Act. Work performed by a local agency shall be subject to the law governing the performance of that work by the local agency and applicable state and federal laws or regulations. Neither the state nor any officer or employee thereof shall have any responsibility in connection with any work performed by a local agency.

(Amended by Stats. 1989, Ch. 1123, Sec. 5. Effective September 30, 1989.)

8685.8. Under procedures to be prescribed by the director, a local agency may receive an advance of funds to initiate a project. Such advances shall be limited to not more than 90 percent of the estimated state's share of the project, as determined pursuant to Section 8686.

(Amended by Stats. 2013, Ch. 352, Sec. 195. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8685.9. Notwithstanding any other provision of law, including Section 8686, for any eligible project, the state share shall not exceed 75 percent 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 in accordance with the federal Disaster Mitigation Act of 2000 (P.L. 106-390) as part of the safety element of its general plan adopted pursuant to subdivision (g) of Section 65302. In that situation, the Legislature may provide for a state share of local costs that exceeds 75 percent of total state eligible costs.

(Added by Stats. 2006, Ch. 739, Sec. 1. Effective January 1, 2007.)

8686. (a) For any eligible project, the state share shall amount to no more than 75 percent of total state eligible costs.

(b) Notwithstanding subdivision (a), the state share shall be up to 100 percent of total state eligible costs connected with the following events:

(1) The October 17, 1989, Loma Prieta earthquake.

(2) The October 20, 1991, East Bay fire.

(3) The fires that occurred in southern California from October 1, 1993, to November 30, 1993, inclusive.

(4) The January 17, 1994, Northridge earthquake.

(5) Storms that occurred in California during the periods commencing January 3, 1995, and February 13, 1995, as specified in agreements between this state and the United States for federal financial assistance.

(6) The storms that occurred in California in December of 1996 and early January of 1997, as specified in agreements between this state and the United States for federal financial assistance.

(7) The winter storms and flooding that occurred from February 1, 1998, to April 30, 1998, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(8) The wildfires that occurred in southern California commencing October 21, 2003, as specified in agreements between this state and the United States for federal financial assistance.

(9) The December 22, 2003, San Simeon earthquake, as specified in agreements between this state and the United States for federal financial assistance.

(10) The severe storms, flooding, debris flows, and mudslides that occurred during December 27, 2004, to January 11, 2005, inclusive, in southern California, as specified in agreements between this state and the United States for federal financial assistance.

(11) The severe storms, flooding, landslides, and mud and debris flows that occurred in southern California during the period from February 16 to February 23, 2005, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(12) The severe storms, flooding, mudslides, and landslides that occurred in northern California during the period from December 17, 2005, to January 3, 2006, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(13) The severe storms and flooding that occurred in northern and central California during the period from March 29, 2006, to April 16, 2006, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(c) For any federally declared disaster subsequent to January 1, 1995, that the Legislature has designated in subdivision (b), the state shall assume the increased share specified in subdivision (b) in those cases where the Federal Emergency Management Agency or another applicable federal agency has approved the federal share of costs.

(d) The state shall make no allocation for any project application resulting in a state share of less than two thousand five hundred dollars (\$2,500) under this section.

(Amended by Stats. 2006, Ch. 897, Sec. 1. Effective September 30, 2006.)

8686.1. (a) Notwithstanding subdivision (a) of Section 8686, the state share shall be up to 100 percent of total state eligible costs connected with the Middle River levee break in San Joaquin County that occurred in June 2004.

(b) For the disaster that the Legislature has designated in subdivision (a), the state shall assume the increased share specified in subdivision (a) if the Federal Emergency Management Agency or another applicable federal agency has approved the federal share of costs.

(c) The state shall make no allocation for any project application resulting in a state share of less than two thousand five hundred dollars (\$2,500) under this section.

(Added by Stats. 2004, Ch. 778, Sec. 1. Effective September 25, 2004.)

8686.2. When the United States or any agency thereof is to provide disaster relief funds for any portion of the cost of a project, the amount so provided shall be deducted from the cost of the project in determining the amount to be allocated by the state and the amount to be contributed by the local agency under Section 8686. It shall not be required that the disaster relief funds to be provided from federal sources shall be paid into the State Treasury, but the secretary shall, if state funds are available, authorize the work to be commenced when the director has received assurance, adequate in his or her opinion, that the federal disaster relief matching funds will be made available for expenditure for the work, or for payment to the state for performance thereof.

(Amended by Stats. 2013, Ch. 352, Sec. 196. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8686.3. Local agencies shall undertake to recover maximum federal participation in funding projects. No funds allocated under this chapter shall be used to supplant federal funds otherwise available in the absence of state financial relief. State contributions for such projects as determined by Section 8686 will be reduced by an amount equal to the amount local agencies would have recovered from federal disaster relief sources if they had applied for that funding and had executed the eligible projects in conformity with federal requirements. When a local agency applies for federal disaster relief funds, the director shall inform the agency of available state funds.

(Amended by Stats. 2013, Ch. 352, Sec. 197. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8686.4. (a) Whenever the local agency and the director determine for projects that the general public and state interest will be better served by replacing a damaged or destroyed facility with a facility that will more adequately serve the present and future public needs than would be accomplished merely by repairing or restoring the damaged or destroyed facility, the director shall authorize the replacement, including, in the case of a public building, an increase in the square footage of the building replaced, but the cost of the betterment of the facility, to the extent that it exceeds the cost of repairing or restoring the damaged or destroyed facility, shall be borne and contributed by the local agency, and the excess cost shall be excluded in determining the amount to be allocated by the state. The state contribution shall not exceed the net cost of restoring each facility on the basis of the design of the facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards.

(b) Notwithstanding subdivision (a), when the director determines there are mitigation measures that are cost effective and that substantially reduce the risk of future damage, hardship, loss, or suffering in any area where a state of emergency has been proclaimed by the Governor, the director may authorize the implementation of those measures.

(Amended by Stats. 2013, Ch. 352, Sec. 198. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8686.8. If the director determines that a local agency is financially unable to meet the matching requirements set forth in Section 8686, or unable to provide funds for replacement of a facility pursuant to Section 8686.4, the director may, if that loan would not result in a violation of Section 18 of Article XVI of the California Constitution and out of any state money made available for purposes of this chapter, lend funds, for the completion of a project or projects. The local agency shall be required by the director to make its contribution by means of deferred payments. The deferred payments shall be made in the amounts and at the times provided by the agreement executed in connection with the application, but in any event providing full repayment within 10 years, and shall include a charge to be fixed by the director in an amount estimated by him or her to equal the revenue that the state would have derived by investing the total amounts loaned at the interest rate prevailing for legal state investments as of the date of the loan.

(Amended by Stats. 2013, Ch. 352, Sec. 199. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8687. Deferred payments made by a local agency pursuant to Section 8686.8 shall be made by the agency:

(a) Out of the current revenues of the local agency.

(b) If the current revenues of a city, county, or city and county, prove insufficient to enable the agency to meet the payments, the director may order the State Controller to withhold from the local agency funds that the local agency would be entitled from the state, including, as to street and highway projects as defined by Sections 590 and 592 of the Vehicle Code, from the Motor Vehicle License Fee Fund to the extent necessary to meet the deficiency.

Those sums shall be credited to the funds in the State Treasury from which the loans were made.

(Amended by Stats. 2013, Ch. 352, Sec. 200. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8687.2. Notwithstanding Section 8686, whenever the director determines that a local agency to which funds are proposed to be allocated for a public facilities project is financially unable to meet the matching requirements set forth in Section 8686 due to exhaustion of its financial resources because of disaster expenditures, the provisions of Section 8686 may be suspended, and the director may allocate funds to pay all of the cost of the project or that portion of the cost which the director determines is necessary to accomplish the project, taking into consideration the financial ability of the local agency to meet the matching requirements of Section 8686 and the public benefit of the proposed work, less any money provided by the United States or any agency thereof for any portion of the cost of the project.

(Amended by Stats. 2013, Ch. 352, Sec. 201. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8687.4. Whenever the director determines that a local agency which would otherwise be eligible for funds under the formula of Section 8686 is unable to finance a project due to exhaustion of its financial resources because of disaster expenditures, the director may allocate funds to pay such portion of the cost of the project as the director determines is necessary to accomplish the projects.

(Amended by Stats. 2013, Ch. 352, Sec. 202. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8687.6. If the local agency, under Section 8687.4, is a county, the amount contributed by the county shall not be reduced to less than an amount of money equal to the amount allocated to the county for the fiscal year prior to the disaster proclamation pursuant to Section 2110.5 of the Streets and Highways Code.

(Amended by Stats. 2001, Ch. 822, Sec. 9. Effective January 1, 2002.)

8687.7. (a) As used in this section, the following terms have the following meanings:

(1) "Agency" or "office" means the Office of Emergency Services.

(2) "Community" means a geographic area impacted by an emergency proclaimed by the Governor that includes the jurisdiction of one or more local agencies.

(3) "Community recovery partners" means local, state, and federal agencies, private nonprofit organizations, nongovernmental agencies, faith-based organizations, and other private entities.

(b) The office may establish a model process that would be made available to assist a community in recovering from an emergency proclaimed by the Governor. The model process may include the following:

(1) The role of the office in the community recovery process.

(2) Procedures for the office to have representation onsite as soon as practicable after the Governor proclaims a state of emergency.

(3) The role of the office to facilitate the use of temporary services, including, but not limited to, direct assistance to individuals, families, and businesses, crisis counseling, disaster unemployment assistance, food and clothing vouchers, communications

systems, replacement of personal identification documents, provision of potable water, housing, farm service assistance, tax relief, insurance, and legal services.

(4) The role of the office to facilitate the establishment of temporary structures, including local assistance centers, showers and bathroom facilities, and temporary administrative offices.

(5) Measures to encourage the participation of nongovernmental organizations in the community recovery process to supplement recovery activities undertaken by federal or local agencies.

(6) The office may refer the model process to the standardized Emergency Management System (SEMS) Advisory Board, or any other advisory board it deems appropriate, for review and modifications.

(7) It is the intent of the Legislature that the model process assists and complements local procedures. The model process should allow the office to offer additional assistance when that assistance is needed but not available through local agencies.

(Amended by Stats. 2013, Ch. 352, Sec. 203. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8687.8. If the local agency, under Section 8687.4, is a county, the director, in determining whether the county's financial resources are exhausted, shall ascertain whether the county has levied, during the then current year (the year of the disaster), the maximum property tax for highway purposes authorized by Section 1550 of the Streets and Highways Code in the road district in which the work is proposed, and if such tax is being levied at less than the maximum rate authorized by Section 1550, the amount to be allocated by the director under this section shall be reduced by an amount equivalent to the difference between the revenue derived from the property tax being levied for highway purposes in such road district and the revenue which would have been derived from such tax at the maximum rate authorized by Section 1550. In determining if a county has levied sufficient taxes, amounts to be received from other taxes levied by that county and used for road purposes shall be included.

(Added by Stats. 1974, Ch. 290.)

8687.9. Funding and financial assistance provided to local governments in response to an emergency, as that term is used in Section 8558, is not subject to the eligibility restrictions of Section 1782 of the Labor Code.

(Added by Stats. 2015, Ch. 2, Sec. 4. (AB 92) Effective March 27, 2015.)