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**Authors:** Pelowski and others

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**Analyst:** Colbey Sullivan

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### Overview

This bill creates a contingency account and statutory appropriation to fund certain disaster relief expenditures, requires the state to pay the entire nonfederal share for local units of government and American Indian tribes that receive Federal Emergency Management Agency (FEMA) disaster aid, and creates a new program to provide disaster relief grants to local units of government and American Indian tribes that sustain significant damage but are not eligible for FEMA assistance.

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#### **Article 1: Disaster Assistance for public entities; federal aid granted**

##### Overview

This article requires the state to pay 100 percent of the nonfederal share (often referred to as the “match”) of FEMA-eligible disaster costs for state agencies, American Indian tribes, and local units of government. It also creates a new disaster contingency account to capture expiring appropriations from prior disasters and to statutorily appropriate money to the Department of Public Safety (DPS) to (1) pay the nonfederal share for state agencies, local units of government, and American Indian tribes, and (2) award state disaster assistance grants to American Indian tribes and local units of government under the new program in Article 2.

#### **1 Local government.** Links the definition of “local government” for state disaster assistance

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purposes to the federal definition promulgated by FEMA as of 2012. That definition is:

*“Local government:* (i) A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government; (ii) An Indian tribe or authorized tribal organization, or Alaska Native village or organization; and (iii) A rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.”

- 2 **Nonfederal share.** Links definitions of “nonfederal share” (of FEMA Public Disaster Program assistance in chapters 12 and 12A. The definition would reside in chapter 12A. The nonfederal share – or the portion of total eligible damages that is not eligible for FEMA assistance – is sometimes referred to as the “FEMA match” and is typically 25 percent, with FEMA paying the remaining 75 percent of eligible costs.
- 3 **Subgrant agreements; state share.** Requires the state to pay 100 percent of the nonfederal share for FEMA Public Assistance to local units of government, as defined above.
- 4 **Disaster contingency account; appropriation.** Creates a contingency account in the general fund. Establishes an ongoing, statutory appropriation to DPS. The appropriation would provide state dollars to (1) state agencies and local units of government (as defined) to pay 100 percent of the nonfederal share for FEMA public disaster assistance, and (2) local units of government (as defined) under the new program created in article 2. If the balance of the contingency account is not sufficient to make all payments, up to \$4,000,000/fiscal year of additional dollars would be appropriated from the general fund to DPS, but only after the commissioner of management and budget (MMB) reports estimated additional expenditures to legislative committees and approves the payments. Requires an annual report on appropriations and expenditures. Requires the governor to propose funding for the contingency account as part of the governor’s budget recommendation to the legislature. Provides that neither funds in the contingency account nor appropriations from the account expire.
- 5 **Appropriation.** Technical.
- 6 **Local government.** Links the definition of “local government” for purposes of chapter 12A to the new chapter 12 definition established in section 1.
- 7 **Nonfederal share.** Defines the term as the portion of total FEMA Public Assistance Program eligible disaster costs that is not eligible for FEMA reimbursement, not to exceed 25 percent.
- 8 **Nonduplication of federal assistance.** Replaces the term “matching” (money for FEMA assistance) with “cost-share”. Replaces the terms “political subdivision” and “Indian tribe” with the new term “local government” defined in section 1.
- 9 **State cost-share for federal assistance.** Authorizes appropriations to pay for 100 percent of

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the nonfederal share for state agencies and local units of government.

- 10**     **Disaster assistance.** Requires MMB to transfer unspent and expiring disaster assistance appropriations to the new contingency account. Requires MMB to report each transfer to the legislature.
- 11**     **Effective date.** Article 1 is effective the day following final enactment.

### **Article 2: Disaster Assistance for Public Entities; Absent Federal Aid**

#### **Overview**

This article establishes a new disaster relief program for local units of government and American Indian tribes that are not eligible to receive FEMA assistance or corresponding state disaster aid under chapter 12A but sustained eligible damages, on a per capita basis, greater than or equal to 50 percent of FEMA's county per capita impact indicator.

- 1**     **Public Disaster Assistance; Absent Federal Aid.** States the purpose of this new chapter.
- 2**     **Definitions.** Defines key terms, including "local government," (same as Article 1) "disaster," and "incident period."
- 3**     **Eligibility criteria; considerations.** Authorizes DPS to award grants to eligible local government applicants. Establishes what constitutes a qualifying disaster. Requires DPS to consider an applicant's ability to access other resources and the availability or existence of insurance.
- 4**     **Eligible costs.** States that eligible costs are those that would be eligible for FEMA Public Assistance Program grants had FEMA assistance been available to the local unit of government. FEMA Public Assistance Program eligible cost categories are:

#### Emergency Work

- Debris removal – Clearance of trees and woody debris; certain building wreckage; damaged/destroyed building contents; sand, mud, silt, and gravel; vehicles; and other disaster-related material deposited on public and, in very limited cases, private property.
- Emergency protective measures – Measures taken before, during, and after a disaster to eliminate/reduce an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.

#### Permanent Work

- Roads and bridges – Repair of roads, bridges, and associated features, such as shoulders, ditches, culverts, lighting, and signs.

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- Water control facilities – Repair of drainage channels, pumping facilities, and some irrigation facilities. Repair of levees, dams, and flood control channels are eligible on a restricted basis.
- Buildings and equipment – Repair or replacement of buildings, including their contents and systems; heavy equipment; and vehicles.
- Utilities – Repair of water treatment and delivery systems; power generation facilities and distribution facilities; sewage collection and treatment facilities; and communications.
- • Parks, recreational facilities, and other facilities – Repair and restoration of parks, playgrounds, pools, cemeteries, mass transit facilities, and beaches. This category also is used for any work or facility that cannot be characterized adequately by the categories above.

- 5 Applicant’s share.** Limits state grants to 75 percent of the applicant’s eligible costs. Lists volunteer and in-kind contributions that count as part of the applicant’s 25 percent share.
- 6 Application process.** Requires DPS to develop application materials. Establishes the application submission and review process.
- 7 Claims process.** Requires an applicant to submit a claim for payment of actual and eligible costs. Provides a process for applicants to challenge a claim denial. Authorizes DPS to inspect all work submitted for payment. Requires an applicant to properly account for all disaster grants received and to submit to an audit by DPS or the Office of the Legislative Auditor.
- 8 Funding from other sources; repayment required.** Requires a grant recipient to refund the money to the state if the recipient subsequently receives money for the same purpose from a different source.
- 9 Effective date.** Article 2 is effective the day following final enactment.

## Article 3

- 1 Appropriation; disaster assistance contingency account.** Appropriates an unspecified amount of money from the general fund to the new disaster assistance contingency account.