

AMENDED IN ASSEMBLY JANUARY 23, 2020

AMENDED IN ASSEMBLY APRIL 30, 2019

AMENDED IN ASSEMBLY APRIL 22, 2019

AMENDED IN ASSEMBLY MARCH 25, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 291**

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**Introduced by Assembly Member Chu**

January 28, 2019

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An act to add Article ~~21~~ 23 (commencing with Section ~~8669~~ 8669.8) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as amended, Chu. Local Emergency Preparedness and Hazard Mitigation Fund.

The California Emergency Services Act creates within the office of the Governor the Office of Emergency Services, which is responsible for the state's emergency and disaster response services, as specified. Existing federal law requires a state mitigation plan as a condition for disaster assistance and authorizes the Federal Emergency Management Agency to condition mitigation grant assistance upon state, local, and Indian tribal governments undertaking coordinated disaster mitigation planning and implementation measures.

Existing law requires the Office of Emergency Services, in coordination with all interested state agencies with designated response roles in the state emergency plan and interested local emergency management agencies, to jointly establish by regulation a standardized

emergency management system for use by all emergency response agencies.

This bill would establish a Local Emergency Preparedness and Hazard Mitigation Fund ~~to~~ *to, upon appropriation by the Legislature*, support staffing, planning, and other emergency mitigation priorities to help local governments meet emergency management, preparedness, readiness, and resilience goals. ~~The bill would, upon appropriation by the Legislature, require the Controller to transfer \$500,000,000 to the fund.~~ The bill would require the Office of Emergency Services to establish the Local Emergency Preparedness and Hazard Mitigation Fund Committee under the Standardized Emergency Management System Advisory Board. The bill, on or before July 1, ~~2020~~, 2021, would require the committee to adopt guidelines identifying eligible uses of the funds ~~by establishing an outline of standard activities distributed pursuant to these provisions~~ for the mitigation, prevention, preparedness, response, and recovery phases of emergency management that supports the development of a resilient community. The bill would require, upon appropriation by the Legislature, the Office of Emergency Services to receive \$1,000,000 annually and each county to receive \$500,000 annually for specified purposes. The bill would require the Office of Emergency Services to distribute funds to lead agencies, subject to certain requirements and restrictions, as specified. The bill would require lead agencies to further distribute those funds to local governments pursuant to a specified schedule for specified purposes, and impose various requirements on local governments that receive funds pursuant to these provisions. The bill would include related legislative findings.

The California Disaster Assistance Act limits the state share for any eligible project to no more than 75% of total state eligible costs, except that the state share shall be up to 100% of total state eligible costs connected with certain events. That act requires the director to administer its provisions.

This bill would prohibit the director from using funds received by a local government pursuant to the provisions of this bill to calculate the allocation amounts for the local government pursuant to the California Disaster Assistance Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Article 21 (commencing with Section 8669) is~~  
2 ~~added to Chapter 7 of Division 1 of Title 2 of the Government~~  
3 ~~Code, to read:~~

4     ~~SECTION 1. Article 23 (commencing with Section 8669.8) is~~  
5 ~~added to Chapter 7 of Division 1 of Title 2 of the Government~~  
6 ~~Code, to read:~~

7  
8             ~~Article 21:23. Local Emergency Preparedness and Hazard~~  
9                             Mitigation Fund

10  
11     ~~8669.~~

12     ~~8669.8. The Legislature finds and declares all of the following:~~

13     ~~(a) To protect public health and safety and the environment, it~~  
14 ~~is necessary to establish a high level of preparedness in counties,~~  
15 ~~cities, and special districts to respond to disasters. The~~  
16 ~~establishment of a high level of preparedness at the local~~  
17 ~~government level is of statewide concern because of the possibility~~  
18 ~~of catastrophic disasters striking the citizens of the state especially~~  
19 ~~as the state faces the impacts of climate change.~~

20     ~~(b) The establishment of a local disaster preparedness fund is~~  
21 ~~the basis for achieving the stable funding necessary to maintain a~~  
22 ~~high level of local preparedness and readiness, including the~~  
23 ~~ongoing evaluation and hazard mitigation of existing risks before~~  
24 ~~a disaster strikes, that the citizens of the state deserve and need.~~

25     ~~(c) The funds generated pursuant to this article should be~~  
26 ~~available to eligible local governments in order to provide~~  
27 ~~flexibility to manage hazard mitigation programs, develop needed~~  
28 ~~emergency operations plans and response procedures, establish~~  
29 ~~emergency management facilities, and provide necessary training~~  
30 ~~as the local hazards and state of preparedness may dictate.~~

31     ~~(d) The funds generated pursuant to this article should be~~  
32 ~~administered to benefit the overall state of preparedness of all~~  
33 ~~eligible local government agencies, to enhance regional planning~~  
34 ~~and response and hazard mitigation, and to ensure a high degree~~  
35 ~~of accountability to the public and its elected representatives.~~

36     ~~8669.1.~~

37     ~~8669.81. For purposes of this article, the following definitions~~  
38 ~~apply:~~

- 1 (a) "Director" means the Director of Emergency Services.
- 2 (b) "Fund" means the Local Emergency Preparedness and
- 3 Hazard Mitigation Fund established pursuant to Section ~~8669.2.~~
- 4 ~~8669.82.~~
- 5 (c) "Committee" means the Local Emergency Preparedness and
- 6 Hazard Mitigation Fund Committee established pursuant to Section
- 7 ~~8669.3.~~ ~~8669.83.~~
- 8 (d) "Board" means the Standardized Emergency Management
- 9 System Advisory Board.
- 10 (e) "Eligible local government" means a local government with
- 11 responsibilities to respond or assist in response to disasters,
- 12 consistent with local emergency plans.
- 13 (f) "Lead agency" means the lead agency of an operational area.
- 14 (g) "Local government" means a city, county, city and county,
- 15 or special district.
- 16 (h) "Operational area" has the same meaning as set forth in
- 17 Section 8559.
- 18 (i) "Hazard mitigation" ~~means an action taken to reduce or~~
- 19 ~~eliminate the long-term risk to human life and property from natural~~
- 20 ~~hazards and improve community emergency preparedness and~~
- 21 ~~resilience. has the same meaning as defined in the most current~~
- 22 ~~version of the State of California Emergency Plan.~~
- 23 ~~8669.2.~~
- 24 ~~8669.82.~~ The Local Emergency Preparedness and Hazard
- 25 Mitigation Fund is hereby created within the State Treasury.
- 26 Moneys in the Local Emergency Preparedness and Hazard
- 27 Mitigation Fund shall be ~~available~~ *available, upon appropriation*
- 28 *by the Legislature*, for purposes of distributing funds pursuant to
- 29 this article to support, staffing, planning, and other emergency
- 30 mitigation priorities to help local governments meet emergency
- 31 management, preparedness, readiness, and resilience goals. ~~Upon~~
- 32 ~~appropriation by the Legislature, the Controller shall transfer five~~
- 33 ~~hundred million dollars (\$500,000,000) annually to the fund.~~
- 34 ~~8669.3.~~
- 35 ~~8669.83.~~ (a) The Office of Emergency Services shall establish
- 36 the Local Emergency Preparedness and Hazard Mitigation Fund
- 37 Committee under the supervision of the Standardized Emergency
- 38 Management System Advisory Board.
- 39 (b) The committee shall include the following representatives:
- 40 (1) The director or the director's appointee.

- 1 ~~(2) A representative from the California Emergency Services~~  
2 ~~Association.~~
- 3 ~~(3) A representative from the California State Association of~~  
4 ~~Counties.~~
- 5 ~~(4) A representative from the League of California Cities.~~
- 6 ~~(5) From~~
- 7 *(2) The following representatives that each of the three Office*  
8 *of Emergency Services Mutual Aid Administrative Regions:*  
9 *Regions shall select:*
- 10 ~~(A) One representative from a city with a population of 300,000~~  
11 ~~or more.~~
- 12 ~~(B) One representative from a city with a population of less~~  
13 ~~than 300,000.~~
- 14 ~~(C) One representative from a city within the region that is not~~  
15 ~~also a person serving on the commission pursuant to subparagraph~~  
16 ~~(A):~~
- 17 *(A) One representative of a city with a population among the*  
18 *10 largest in the state and one representative of a county with a*  
19 *population among the 10 largest in the state.*
- 20 *(B) One representative of a city that both has a population not*  
21 *less than 100,000 and is not represented pursuant to subparagraph*  
22 *(A) and one representative of a county that both has a population*  
23 *not less than 100,000 and is not represented pursuant to*  
24 *subparagraph (A).*
- 25 *(C) One representative of a city with a population less than*  
26 *100,000 and one representative of a county with a population less*  
27 *than 100,000.*
- 28 ~~(D) One representative of a special district.~~
- 29 ~~(E) One representative from a county with 700,000 or more in~~  
30 ~~population.~~
- 31 ~~(F) One representative from a county with less than 700,000 in~~  
32 ~~population.~~
- 33 ~~(G)~~
- 34 *(E) One representative from a tribal government.*
- 35 *(F) For purposes of this paragraph, population shall be based*  
36 *on the most recent estimate of population data determined by the*  
37 *Demographic Research Unit of the Department of Finance.*
- 38 ~~(6)~~
- 39 ~~(3) The Director of CAL FIRE or the director's designee.~~
- 40 ~~(7)~~

1 (4) The Executive Director of the Seismic Safety Commission  
2 or that person’s designee.

3 ~~(8)~~

4 (5) The Chief Executive Officer of the California Earthquake  
5 Authority or that person’s designee.

6 (c) The committee members selected pursuant to subdivision  
7 (b) shall each serve a term of two years.

8 ~~8669.4.~~

9 8669.84. (a) The committee shall report to the board. The  
10 board shall meet every six months to hear committee reports.

11 (b) On or before July 1, ~~2020~~, 2021, the committee shall adopt  
12 guidelines identifying eligible uses of the funds ~~by establishing an~~  
13 ~~outline of standard activities consistent with Section 8669.86~~ for  
14 the mitigation, prevention, preparedness, response, and recovery  
15 phases of emergency management that supports the development  
16 of a resilient community.

17 ~~8669.5.~~

18 8669.85. (a) To receive funds pursuant to this article, an  
19 eligible local government shall maintain their local hazard  
20 mitigation ~~plan and updated annually,~~ *plan, multiyear training and*  
21 *exercise plan, and threat and hazard identification and risk*  
22 *assessment plan*, in accordance with regulations adopted by the  
23 Office of Emergency Services. *If a local government does not have*  
24 *any of these plans, it may use funds allocated from the Fund to*  
25 *develop a plan.* ~~The update to the local hazard mitigation plan~~  
26 ~~updates to these plans~~ shall form the work plan for the local  
27 government. The local government work plans, together, shall  
28 become part of an operational area work plan and shall guide the  
29 use of all funds allocated from the ~~Local Emergency Preparedness~~  
30 ~~and Hazard Mitigation~~ Fund to jurisdictions within an operational  
31 area. The work plan shall contain measurable disaster preparedness  
32 and hazard mitigation goals and objectives.

33 (b) (1) The lead agency for an operational area, as identified  
34 by the agreement that establishes the operational area, shall forward  
35 annually a copy of the updated work plan and shall submit a  
36 biennial report on work plan projects to the Office of Emergency  
37 Services.

38 (2) Within 160 days following a proclaimed emergency, the  
39 Governor and the Legislature may request an operational area to

1 report on how funds allocated pursuant to this article contributed  
2 to the area's response.

3 ~~8669.6.~~

4 8669.86. (a) A local government that receives funds pursuant  
5 to this article shall identify in the work plan how the funds are to  
6 be used, in the following categories:

7 (1) ~~Funding-Implementing~~ hazard mitigation projects, including,  
8 but not limited to, the following:

9 (A) Physical projects that will reduce risk or loss from  
10 earthquakes, floods, ~~fire, fires~~, or other disaster agents.

11 (B) Local share requirements for state or federal hazard  
12 mitigation grants.

13 (2) ~~Development of-Developing~~ emergency operations plans,  
14 protocols, procedures, field operation guidance, or similar planning  
15 and response tools, including establishment and maintenance of  
16 emergency supply stockpiles.

17 (3) Upgrading or establishing emergency facilities from which  
18 the agency can manage personnel and resource response to an  
19 emergency or disaster. For purposes of this paragraph, "emergency  
20 facilities" includes, but is not limited to, emergency operations  
21 centers and communications systems used for coordination within  
22 a jurisdiction or between jurisdictions.

23 (4) Training in emergency management and disaster response,  
24 including, but not limited to, ensuring that staff can address  
25 emergency preparedness and response needs for ~~the most~~  
26 ~~vulnerable community members to ensure cultural and linguistic~~  
27 ~~competency in disaster preparedness. For purposes of this~~  
28 ~~paragraph, "vulnerable community members" includes seniors,~~  
29 ~~children, and individuals with language barriers. those projects~~  
30 ~~that serve the access and functional needs population, as defined~~  
31 ~~in subdivision (b) of Section 8593.3.~~

32 (b) At the end of each fiscal year, an eligible local government  
33 shall confirm that funds were used for programs in the categories  
34 described in subdivision (a), and shall submit appropriate  
35 documentation to the lead agency with an annual update to the  
36 eligible local government's element of the work plan.

37 ~~8669.7.~~

38 8669.87. (a) (1) A local government that receives funds shall  
39 submit reports to their respective operational area, and the

1 operational area shall forward the reports to the Office of  
 2 Emergency Services.

3 (2) The Office of Emergency Services shall present reports  
 4 forwarded to it pursuant to paragraph (1) to the committee. The  
 5 committee may make recommendations for improvement *of the*  
 6 *eligible projects and programs, improvement of the reporting*  
 7 *structure*, and may withhold future project allocations if it  
 8 determines program funds are not being appropriately spent.

9 (b) The Office of Emergency Services shall, upon appropriation  
 10 by the Legislature pursuant to Section 8669.2, *Legislature*, receive  
 11 one million dollars (\$1,000,000) annually and each county shall  
 12 receive five hundred thousand dollars (\$500,000) annually for  
 13 administrative costs and other purposes to implement this article.  
 14 Subject to paragraph (2) of subdivision (a), the Office of  
 15 Emergency Services shall distribute the remaining funds, on an  
 16 annual basis, to the lead agency of an operational area. The lead  
 17 agency of the operational area shall agree to manage and control  
 18 funds received pursuant to this article, in compliance with this  
 19 article. The lead agency shall distribute the funds as follows:

20 (1) ~~Sixty percent of the funds to the operational area lead agency~~  
 21 ~~and all eligible cities within the operational area on a per capita~~  
 22 ~~basis, based on a formula to be developed by the committee that~~  
 23 ~~factors a community's high hazard risk factors based on maps~~  
 24 ~~produced by the Office of Emergency Services in the State Hazard~~  
 25 ~~Mitigation Plan that identify areas of the state with the most~~  
 26 ~~vulnerable populations with earthquake, flood, and fire hazards.~~  
 27 ~~Funding distributed pursuant to this paragraph may be carried over~~  
 28 ~~to subsequent fiscal years as long as projects are ongoing. for direct~~  
 29 ~~distribution to cities and unincorporated areas within the~~  
 30 ~~operational area on a per capita basis, with a minimum distribution~~  
 31 ~~amount of one hundred thousand dollars (\$100,000).~~

32 (2) ~~Fifteen percent via a competitive grant process established~~  
 33 ~~by the lead agency to eligible special districts, local or tribal~~  
 34 ~~governments, and nonprofit, faith-based, and other voluntary~~  
 35 ~~organizations active in disaster preparedness within the operational~~  
 36 ~~area. for high risk zones with high hazard risk factors based on~~  
 37 ~~maps produced by the Office of Emergency Services in the State~~  
 38 ~~Hazard Mitigation Plan that identify areas of the state with the~~  
 39 ~~most vulnerable population, including people that are located in~~

1 *areas with earthquake, flood, and fire hazards and have access*  
2 *and functional needs or social vulnerabilities.*

3 ~~(3) Twenty-five percent to an operational area trust fund~~  
4 ~~established for projects of common benefit to two or more eligible~~  
5 ~~local governments within the operational area for purposes of this~~  
6 ~~article. All local governments within the operational area shall~~  
7 ~~mutually agree upon projects of common benefit that qualify under~~  
8 ~~this paragraph. *distributed per capita, per operational area to*~~  
9 ~~*establish a competitive grant process agreed upon by all*~~  
10 ~~*jurisdictions within the boundary of each county to support projects*~~  
11 ~~*of common benefit for two or more eligible local governments.*~~  
12 ~~*Funds can be used to support projects that include unincorporated*~~  
13 ~~*counties, cities, special districts, tribal governments, and nonprofit,*~~  
14 ~~*faith-based, and other voluntary organizations active in disaster*~~  
15 ~~*preparedness.*~~

16 (c) (1) The operational area and local governments within the  
17 operational area shall determine mitigation and preparedness  
18 stakeholders, and shall facilitate the coordination and input from  
19 government departments on cross-departmental and  
20 cross-jurisdictional projects identified in the respective local hazard  
21 mitigation plan.

22 (2) The amount of state funds received by a local agency within  
23 an operational area shall not be reduced by any other local agency  
24 within the operational area due to an allocation from the fund or  
25 an operational area trust fund.

26 (d) (1) To be eligible to receive funds pursuant to this article,  
27 a local government shall do the following:

28 (A) Commit to continuing to contribute local funds equal to the  
29 average of that amount that was committed over the last five years  
30 to emergency management staffing, preparedness, readiness, and  
31 resilience.

32 (B) Create and update, on an annual basis, *a work plan that*  
33 *addresses projects or programs identified in a local hazard*  
34 *mitigation plan, a multiyear training and exercise plan, or a*  
35 *threat hazard identification and risk assessment plan* that identifies  
36 how funds received pursuant to this section shall be spent on  
37 emergency mitigation, prevention, preparedness, response, and  
38 recovery. The work plan shall contain measurable emergency  
39 management, preparedness, readiness, resilience, and hazard  
40 mitigation goals and objectives. The work plan shall be reviewed

1 by the lead agency, and submitted to the Office of Emergency  
2 Services.

3 (C) Submit an annual report to the lead agency outlining  
4 expenditures and progress toward the local hazard mitigation plan  
5 goals.

6 (2) A local government that receives funds pursuant to this  
7 section shall not use those funds to supplant current emergency  
8 management funding.

9 (e) An operational area or other recipient of funds pursuant to  
10 this article may use a percentage of funds received, consistent with  
11 federal emergency preparedness grants, for the purposes of  
12 management and administration costs.

13 (f) The director shall not use funds received by a local  
14 government pursuant to this section to calculate the allocation  
15 amounts for the local government pursuant to Article 4  
16 (commencing with Section 8685) of Chapter 7.5.