

**SUBSTITUTE FOR
SENATE BILL NO. 109**

A bill to amend 1976 PA 390, entitled "Emergency management act," by amending the title and sections 18 and 19 (MCL 30.418 and 30.419), the title as amended by 2006 PA 267, section 18 as amended by 2018 PA 263, and section 19 as amended by 2018 PA 264, and by adding sections 18a and 18b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to provide for planning, mitigation, response, and
3 recovery from natural and human-made disaster within and outside
4 this state; to create the Michigan emergency management advisory
5 council and prescribe its powers and duties; **to create certain**
6 **funds**; to prescribe the powers and duties of certain state and

1 local agencies and officials; to prescribe immunities and
 2 liabilities; to provide for the acceptance of gifts; and to repeal
 3 acts and parts of acts.

4 Sec. 18. (1) A disaster and emergency contingency fund is
 5 created. ~~and shall be administered by the director. An annual~~
 6 ~~accounting of expenditures under this act shall be made to the~~
 7 ~~legislature and the~~ **The director shall administer the disaster and**
 8 **emergency contingency fund and may deposit money and other assets**
 9 **from any source into the fund. If at the end of a fiscal year the**
 10 **money in the disaster and emergency contingency fund is less than**
 11 **\$75,000,000.00, the** legislature shall annually appropriate
 12 sufficient funds to maintain the fund at a ~~level not to exceed~~
 13 ~~\$10,000,000.00 and not less than \$2,500,000.00. Unexpended~~
 14 **\$75,000,000.00. Except as otherwise provided under subsection (7),**
 15 **unexpended** and unencumbered funds remaining in the disaster and
 16 emergency contingency fund at the end of the fiscal year ~~shall do~~
 17 not lapse to the general fund and ~~shall be~~ **are** carried forward and
 18 ~~be~~ available for expenditure in subsequent fiscal years.

19 (2) The director may expend money from the disaster and
 20 emergency contingency fund upon appropriation for the purpose of
 21 paying necessary and reasonable overtime, travel, and subsistence
 22 expenses incurred by an employee of an agency of this state acting
 23 at the direction of the director in a disaster or emergency related
 24 operation, and, with the concurrence of the governor or the
 25 governor's designated representative, for other needs required for
 26 the mitigation of the effects of, or in response to, a disaster or
 27 emergency.

28 (3) The director may place directly in the disaster and
 29 emergency contingency fund a reimbursement for expenditures out of

1 the fund received from the federal government, or another source.

2 (4) If a state of major disaster or emergency is declared by
3 the President of the United States, and when authorized by the
4 governor, an expenditure from the fund may be made by the director
5 upon appropriation to pay the state's matching share of grants as
6 provided by ~~the disaster relief act of 1974, Public Law 93-288, 88~~
7 ~~Stat 143.42~~ **USC 5121 to 5207.**

8 (5) The state treasurer shall direct the investment of the
9 disaster and emergency contingency fund. The state treasurer shall
10 credit to the disaster and emergency contingency fund interest and
11 earnings from fund investments.

12 **(6) The director shall submit a recommendation to the**
13 **legislature concerning an amendment to this section that provides**
14 **for the use of funds from the disaster and emergency contingency**
15 **fund created in this section for an initiative to aid preemptive**
16 **disaster resiliency programs. The recommendation described in this**
17 **subsection must include information concerning how the initiative**
18 **described in this subsection is designed to avoid the worst types**
19 **of disasters.**

20 **(7) Except as otherwise provided in this subsection, each**
21 **year, \$500,000.00 of the funds remaining in the disaster and**
22 **emergency contingency fund at the end of the fiscal year may be**
23 **transferred and deposited into the state hazard mitigation fund**
24 **created in section 18a. The transfer and deposit described in this**
25 **subsection may be made only if at the end of the fiscal year the**
26 **balance in the disaster and emergency contingency fund, after this**
27 **transfer and deposit, will be \$75,000,000.00 or more.**

28 **Sec. 18a. (1) The state hazard mitigation fund is created in**
29 **the state treasury.**

1 (2) The state treasurer shall deposit money and other assets
2 received from the disaster and emergency contingency fund, other
3 state or federal sources, or any other source in the state hazard
4 mitigation fund. The state treasurer shall direct the investment of
5 money in the state hazard mitigation fund and credit interest and
6 earnings from the investments to the state hazard mitigation fund.

7 (3) The department is the administrator of the state hazard
8 mitigation fund for audits of the state hazard mitigation fund.

9 (4) The unexpended and unencumbered funds remaining in the
10 state hazard mitigation fund at the end of the fiscal year do not
11 lapse to the general fund and are carried forward and available for
12 expenditure in subsequent fiscal years.

13 (5) The department shall expend money from the state hazard
14 mitigation fund, on appropriation, only for the use of hazard
15 mitigation programs by the department of state police.

16 (6) The state hazard mitigation fund may be expended by the
17 department to support the reasonable administrative expenses
18 related to the administration of the grant program created under
19 this section.

20 (7) The director shall promulgate rules governing grant
21 applications, award determinations, eligible expenditures, and
22 program administration that are related to the hazard mitigation
23 fund. The rules described in this subsection must include, but are
24 not limited to, all of the following criteria:

25 (a) That eligibility for funding is limited to entities
26 eligible to apply as sub-applicants for the Federal Emergency
27 Management Agency's hazard mitigation assistance programs managed
28 and administered by the emergency management and homeland security
29 division within the department. For purposes of this subdivision,

1 eligible sub-applicants include any of the following entities:

2 (i) State agencies.

3 (ii) Local governments.

4 (iii) Federally recognized tribal governments.

5 (b) Except as otherwise provided in this subdivision, the
6 application process for receipt of funds in the hazard mitigation
7 fund must require a showing of evidence that each applicant for
8 funds has adopted and maintains an adequate local hazard mitigation
9 plan that has been approved by the Federal Emergency Management
10 Agency. For purposes of this subdivision, an applicant without a
11 local hazard mitigation plan that has been approved by the Federal
12 Emergency Management Agency may apply for funding as described in
13 this subdivision to develop a new local hazard mitigation plan or
14 update an existing local hazard mitigation plan that has lapsed.

15 (c) Reimbursement from funds in the hazard mitigation fund for
16 expenditures is limited to approved hazard mitigation activities
17 that align with eligible activities under the Federal Emergency
18 Management Agency's hazard mitigation assistance programs or 42 USC
19 5172, for public assistance mitigation.

20 (d) The governor-appointed Michigan Citizen-Community
21 Emergency Response Coordinating Council must be consulted regarding
22 funding decisions related to the hazard mitigation fund.

23 Sec. 18b. Not later than 90 days after the end of each fiscal
24 year, the director shall prepare a report regarding the
25 administration of this act, the disaster and emergency contingency
26 fund, and the state hazard mitigation fund and shall submit the
27 report to the legislature. The report must include all of the
28 following information for the immediately preceding fiscal year:

29 (a) An accounting of each fund, including a description of

1 each deposit into and expenditure from the fund. A description of
2 an expenditure must state the disaster or emergency for which the
3 expenditure was made.

4 (b) The administrative costs associated with each fund.

5 (c) The beginning and ending balances of each fund.

6 (d) An accounting of all federal money that this state applied
7 for regarding a disaster or emergency and all federal money
8 received by this state for a disaster or emergency.

9 (e) A list of all federal reimbursements received by this
10 state related to a disaster or emergency, delineated by the purpose
11 of the federal reimbursement and the state department or agency
12 that incurred the cost that was reimbursed.

13 (f) The amount of money in each fund that has been obligated
14 but has not been expended.

15 (g) A list of every person that this state has contracted with
16 to administer each fund, if applicable.

17 Sec. 19. (1) Under extraordinary circumstances, upon the
18 declaration of a state of disaster or a state of emergency by the
19 governor and subject to the requirements of this subsection, the
20 governor may authorize an expenditure from the disaster and
21 emergency contingency fund to provide state assistance to counties
22 and municipalities when federal assistance is not available. If the
23 governor proclaims a state of disaster or a state of emergency, the
24 first recourse for disaster related expenses ~~shall~~**must** be to funds
25 of the county or municipality. If the demands placed upon the funds
26 of a county or municipality in coping with a particular disaster or
27 emergency are unreasonably great, the governing body of the county
28 or municipality may apply, by resolution of the local governing
29 body, for a grant from the disaster and emergency contingency fund.

1 The resolution ~~shall~~**must** certify that the affected county or
2 municipality emergency operations plan was implemented in a timely
3 manner. The resolution ~~shall~~**must** set forth the purpose for which
4 the assistance is sought, the extent of damages sustained, and
5 certify an exhaustion of local efforts. The assistance under this
6 subsection is to provide grants, excluding reimbursement for
7 capital outlay expenditures, in mitigation of the extraordinary
8 burden of a county or municipality in relation to its available
9 resources. Assistance grants under this section ~~shall~~**must** not
10 exceed the following amounts or 10% of the total annual operating
11 budget for the preceding fiscal year of the county or municipality,
12 whichever is less:

13 (a) For a county or municipality with a population under
14 ~~25,000 according to the most recent federal decennial census,~~
15 ~~\$250,000.00.~~**75,000, \$2,500,000.00.**

16 (b) For a county or municipality with a population of ~~25,000~~
17 **75,000** or more ~~and~~**but** less than ~~75,000 according to the most~~
18 ~~recent federal decennial census, \$500,000.00.~~**500,000,**
19 **\$5,000,000.00.**

20 (c) For a county or municipality with a population of ~~75,000~~
21 **500,000** or more, ~~according to the most recent federal decennial~~
22 ~~census, \$1,000,000.00.~~**\$10,000,000.00.**

23 (2) The director shall promulgate rules governing the
24 application and eligibility for the use of the state disaster and
25 emergency contingency fund. Rules that have been promulgated prior
26 to December 31, 1988 to implement this section ~~shall~~ remain in
27 effect until revised or replaced. The rules ~~shall~~**must** include, but
28 not be limited to, all of the following:

29 (a) Demonstration of exhaustion of local effort.

1 (b) Evidence that the applicant is a county that actively
2 maintains an emergency management program, reviewed by and
3 determined to be current and adequate by the emergency management
4 division of the department, before the disaster or emergency for
5 which assistance is being requested occurs. If the applicant is a
6 municipality with a population of 10,000 or more, evidence that the
7 municipality either maintains a separate emergency management
8 program, reviewed by and determined to be current and adequate by
9 the emergency management division of the department, before the
10 disaster or emergency for which assistance is being requested or
11 occurs, or the municipality is incorporated in the county emergency
12 management program.

13 (c) Evidence that the applicable county or municipal emergency
14 operations plan was implemented in a timely manner at the beginning
15 of the disaster or emergency.

16 (d) Reimbursement for expenditures ~~shall~~**must** be limited to
17 public damage and direct loss as a result of the disaster or
18 emergency, or expenses incurred by the applicant for reimbursing
19 employees for disaster or emergency related activities which were
20 not performed as a part of their normal duties, or for other needs
21 required specifically for the mitigation of the effects, or in
22 response to the disaster or emergency.

23 (e) A disaster assessment team established by the emergency
24 management division of the department has substantiated the damages
25 claimed by the applicant. Damage estimates submitted by the
26 applicant ~~shall~~**must** be based upon a disaster assessment carried
27 out by the applicant according to standard procedures recommended
28 by the emergency management division.