SB 650

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 650 (Senator Elfreth, *et al.*)

Budget and Taxation and Education, Energy, and the Environment | Appropriations

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Public Safety - State Disaster Recovery Fund

This bill establishes the State Disaster Recovery Fund administered by the Maryland Department of Emergency Management (MDEM). The bill also expands the authorized uses of the Catastrophic Event Account administered by the Department of Budget and Management (DBM) to enable units of local government to receive funding directly from the account; the bill also makes corresponding changes to the established purpose of the account. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by $10.0 million in FY 2024 to capitalize the fund; special fund revenues increase correspondingly. Special fund expenditures increase beginning in FY 2024 for administrative costs (which are incurred annually) and disbursements (which occur depending on the occurrence of qualifying events). While future disbursements from the fund cannot be predicted, general fund expenditures increase as needed in future years for ongoing fund replenishments; special fund revenues to the new fund increase correspondingly. Federal fund revenues increase to the extent federal reimbursements are provided. Altering the Catastrophic Event Account is not anticipated to materially affect State finances, as discussed below.

Local Effect: Local revenues and expenditures increase to the extent local governments request and receive disaster recovery assistance from the fund. The bill's changes regarding the Catastrophic Event Account are not anticipated to materially affect local government finances, as discussed below.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The stated purpose of the State Disaster Recovery Fund is to provide:

- disaster recovery assistance to individuals and families when a unit of local government has submitted a request for a disaster declaration but a federal declaration disaster is not received;
- disaster recovery assistance to units of local government of the State for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed when a federal disaster declaration is not received;
- low-interest or no-interest loans to businesses and nonprofits for disaster recovery assistance when a federal disaster declaration is not received;
- disaster-related assistance for unmet needs of individuals and families following a federal disaster declaration;
- disaster-related assistance for unmet needs of individuals and families who have been denied federal assistance but otherwise meet criteria established for the fund; and
- matching funds for assistance to individuals and State and local governmental units after a federal disaster declaration.

The fund is a special, nonlapsing fund and must be available in perpetuity for the purpose of providing disaster recovery assistance in accordance with the bill's provisions. The fund may only be used if (1) the Governor has declared a state of emergency or (2) a local organization for emergency management requests assistance from the fund. However, a portion of the fund may be used to administer the fund, including providing disaster case management resources.

The fund is not intended to duplicate or replicate federal disaster assistance, and the fund may not be used for any other purpose than those described above.

The Governor may include in the annual budget bill an appropriation to the fund. The fund must consist of (1) money appropriated in the State budget to the fund; (2) repayments of principal and interest from loans made from the fund; (3) reimbursements from the federal government or other legal entities for disaster recovery assistance expenditures made from the fund; (4) interest earnings of the fund; and (5) any other money from any other source accepted for the benefit of the fund.

Any funds expended from the fund are supplemental to and are not intended to take the place of funding that otherwise would be appropriated to eligible recipients from the fund for any other purpose.

MDEM must (1) establish eligibility criteria, policies, and procedures for the administration of the fund while considering existing State disaster recovery programs and federal disaster relief and recovery requirements and (2) consult with appropriate State agencies and local organizations for emergency management in the development of eligibility criteria, policies, and procedures for administration of the fund.

MDEM may establish (1) regulations related to the administration of the fund; (2) accounts and sub-accounts within the fund to effectuate the purposes of the bill; and (3) formal advisory bodies to advise on the administration of the fund.

By December 31, 2023, and annually thereafter, the Secretary of Emergency Management must report to the Governor and the General Assembly on the use of the fund for the previous fiscal year. The report must include specified information, including, among other things, (1) the number of state of emergency declarations issued by the Governor; (2) the number of local state of emergency and local disaster declarations submitted to the Secretary; (3) a summary of the damage assessment data related to each declaration; (4) the amount of funding distributed from the fund; and (5) a summary of any federal disaster assistance received.

"Local disaster declaration" means a formal request for State disaster relief and recovery assistance made as a result of an emergency by the senior elected official through the local organization for emergency management.

Current Law:

States of Emergency

Title 14, Subtitle 1 of the Public Safety Article requires the Governor to declare a state of emergency by executive order or proclamation if the Governor finds that an emergency has developed or is impending due to any cause. The state of emergency continues until the Governor (1) finds that the threat or danger has passed or the emergency has been dealt with to the extent that emergency conditions no longer exist and (2) terminates the state of emergency by executive order or proclamation. A state of emergency may not continue for longer than 30 days unless renewed by the Governor. The General Assembly may terminate a state of emergency at any time by joint resolution.

The Secretary of Emergency Management is responsible for coordinating the activities of State agencies and affected political subdivisions in all actions that serve to prevent or alleviate the ill effects of the imminent or actual emergency. An executive order or proclamation that declares a state of emergency activates the emergency response and recovery aspects of State and local emergency plans, as specified.

Only the principal executive officer of a political subdivision may declare a local state of emergency. Except with the consent of the local governing body, a local state of emergency may not continue or be renewed for longer than 30 days. Declaration of a local state of emergency activates the response and recovery aspects of any applicable local state of emergency plan and authorizes the provision of aid and assistance under the applicable plan.

Robert T. Stafford Disaster Relief and Emergency Assistance Act

The federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) is the process that brings federal assistance to state and local governments in response to natural disasters. After the governor of a state or tribal chief executive request that the President of the United States declare an emergency or major disaster, the President may issue declarations that provides federal assistance in response to the incident. However, the governor or tribal chief executive must demonstrate that they are unable to effectively respond to the incident without federal assistance. After the President declares an emergency or major disaster, the Federal Emergency Management Agency (FEMA) can provide federal assistance to the affected jurisdiction. FEMA recommends a major disaster be declared only if assessments of public and nonprofit infrastructure damages in the state meet or exceed specified per capita levels. The damage assessments must also exceed $1.0 million across the state or territory, or $250,000 across a tribe.

Individuals and Households Programs and Public Assistance Program

Among other programs, FEMA administers the Individuals and Households Program (IHP) and the Public Assistance Program (PA). IHP provides financial and direct services to eligible individuals and households affected by disasters who have uninsured or underinsured necessary expenses and serious needs. IHP is intended to meet basic needs and supplement disaster recovery efforts. Assistance may include funds for temporary housing while individuals are unable to live in their homes, temporary housing units, funds to support the repair or replacement of owner-occupied homes, funds for other uninsured or under-insured disaster-caused expenses, and funds for hazard mitigation assistance.

PA provides supplemental federal grant assistance to eligible government entities and private nonprofit organizations. Eligible PA projects include debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities. However, a private nonprofit organization must demonstrate that the facility provides a critical service or provides a noncritical but essential government service and is open to the general public.

Workgroup to Study the Establishment of a State Disaster Relief Fund

Chapters 490 and 491 of 2022, among other things, established the Workgroup to Study the Establishment of a State Disaster Relief Fund. The workgroup was required to study and report its recommendations regarding the efficacy and sustainability of existing emergency fund sources and the potential establishment of a State Disaster Relief Fund. The workgroup submitted its findings to the Governor and the General Assembly on December 29, 2022, and the report may be viewed here. One of the workgroup's recommendations is the establishment of a State disaster relief fund within MDEM.

Resilient Maryland Revolving Loan Fund

Chapter 644 of 2021 established the Resilient Maryland Revolving Loan Fund within MDEM. The revolving loan fund is a special, nonlapsing fund with the stated purpose of providing loans for resilience projects that address mitigation of all hazards, including natural disasters. MDEM must prioritize making loans to projects it determines to have the greatest impact on eliminating hazards. The fund may be used for the administration and management of the fund, in addition to providing low- or no-interest loans to local governments and nonprofit organizations for resilience projects. Local governments providing loans to private property owners are authorized to establish a specified graduated loan forgiveness program for loans issued to private property owners. As of March 2023, the fund contains $25.0 million in pay-as-you-go general funds. The fiscal 2024 budget does not include any additional funding for the fund.

Maryland Department of Emergency Management

Chapters 287 and 288 of 2021 established MDEM as a principal department of the Executive Branch of State government and as the successor to the Maryland Emergency Management Agency. MDEM is responsible for coordinating the State response in any major emergency or disaster. This includes supporting local governments as needed or requested and coordinating assistance with FEMA and other federal partners. MDEM manages many of the federal grants that fund a broad range of initiatives leading to enhanced protection from and responses to the full range of natural and man-made disasters that could threaten the State's citizens.

Political subdivisions of the State (*i.e.*, local governments) are required to (1) establish local organizations for emergency management in accordance with the State's emergency management plan and program and (2) participate in federal programs for emergency management.

Catastrophic Event Account

The Catastrophic Event Account, which is administered by DBM, was established in 1990 to enable the State to respond quickly to a natural disaster or catastrophe that could not be addressed within existing State appropriations. Chapters 1 and 2 of 2019, among other things, expanded the account so that it may be used in the event of a full or partial federal government shutdown due to a lapse in appropriations.

Funds appropriated to the Catastrophic Event Account (1) may not be used to offset operating deficiencies in regular programs of State government but (2) as noted above, may be expended to assist a unit of State government in funding costs in connection with a natural disaster, a catastrophic situation, or a full or partial federal government shutdown due to a lapse in appropriations.

In the event of a natural disaster or catastrophe, prior to transferring funds by budget amendment to the appropriate unit of State government, the Governor must notify the Legislative Policy Committee (LPC) of the proposed amendment and allow the committee to review and approve the proposed amendment. LPC has 15 days to review and comment. If the federal government is in a full or partial shutdown, after a two-day review and comment period by LPC, the Governor may transfer funds by budget amendment from the account to the Federal Government Shutdown Employee Assistance Loan Fund.

The account consists of direct appropriations in the budget bill. Investment earnings are credited to the Revenue Stabilization Account (Rainy Day Fund).

State Fiscal Effect:

Capitalizing the State Disaster Recovery Fund and Associated Special Fund Finances

General fund expenditures increase by $10.0 million in fiscal 2024 to capitalize the new fund; this level of funding is needed to ensure the viability of the fund and to provide meaningful disaster recovery assistance to eligible applicants. Special fund revenues to the fund increase correspondingly in fiscal 2024 and, in future years, by an amount corresponding to any further appropriations made to the fund. Due to the unpredictable nature of the authorized uses of the fund, overall special fund expenditures in any given year cannot be predicted.

Although the pace at which funds will be spent from the State Disaster Recovery Fund is unknown, it is assumed that the fund must be replenished so that the fund balance is at least $10.0 million at the start of each fiscal year. To the extent the fund receives reimbursements from the federal government (or other specified entities) or loan repayments, the need for general funds to capitalize the fund in some years may be reduced. Even if no disaster assistance is provided from the fund in a given year, general fund expenditures increase each year to replenish the fund to cover MDEM's costs to administer the fund (discussed below); special fund revenues and expenditures increase accordingly.

Administrative Costs

The bill explicitly authorizes a portion of the fund to be used for administration. Thus, special fund administrative expenditures increase by *at least* $344,442 in fiscal 2024, which accounts for a 90-day start-up delay. This estimate reflects MDEM's minimum administrative expenses and includes the cost to hire one program manager, one fiscal administrator, one assistance specialist, and one half-time fiscal services officer. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including an ongoing public outreach campaign.

Positions	3.5
Salaries and Fringe Benefits	$307,703
Public Outreach Campaign	7,500
Operating Expenses	29,239
Minimum FY 2024 MDEM Admin. Exp.	**$344,442**

Future year administrative expenditures – which range from a minimum of $413,773 in fiscal 2025 to a minimum of $473,915 by fiscal 2028 – reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. To the extent MDEM requires additional staff, administrative expenditures increase further.

Altering the Catastrophic Event Account

As local governments can receive funding from the Catastrophic Event Account under current law (albeit indirectly, through funding provided by State entities), the bill's changes to the account are not anticipated to affect the overall level of funding needed for the account in any given year. The estimated fiscal 2024 beginning balance of the Catastrophic Event Account is approximately $10.1 million.

DBM can implement the bill's changes regarding the account with existing resources.

Local Fiscal Effect: Local revenues increase to the extent local governments request and receive disaster recovery assistance from the fund; local expenditures increase correspondingly as local governments spend the assistance.

It is assumed that local emergency management agencies can consult with MDEM in the development of eligibility criteria, policies, and procedures for administration of the fund using existing resources.

As previously stated, local governments can already receive funding from the Catastrophic Event Account under current law (though indirectly, through funding provided by State entities). Therefore, the bill's changes regarding the account are not anticipated to materially affect local government finances.

Small Business Effect: Any small business that receives a low-interest or no-interest loan from the fund due to a State or local disaster benefits from the financial assistance. However, small business loan recipients must repay any loans received.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 789 (Delegate D. Jones) - Appropriations.

Information Source(s): Baltimore, Frederick, and Montgomery counties; Maryland Association of Counties; Maryland Department of Emergency Management; City of Havre de Grace; Maryland Municipal League; Department of Budget and Management; Federal Emergency Management Agency; Congressional Research Service; Department of Legislative Services

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