

MAY 2002 UPDATE
TO THE 2002 EDITION OF THE
GOVERNOR'S OFFICE OF EMERGENCY SERVICES
EMERGENCY SERVICES ACT/
NATURAL DISASTER ASSISTANCE ACT BOOKLET

Several sections of the Natural Disaster Assistance Act were omitted.

Insert the following sections within Article 4 at the beginning of page 91.

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.

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.

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.

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.

(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.

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 director shall, if state funds are available, authorize the work to be commenced when the director has received assurance, adequate in his 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.

It is the intent of the Legislature that the amendments to this section made by Assembly Bill No. 2338 of the 1977-78 Regular Session of the Legislature be operative commencing with the effective date of the Natural Disaster Assistance Act, May 31, 1974.

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.

8686.4. (a) Whenever the local agency and the director determine for public facility 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.

8686.6. Money allocated to a local agency for a street and highway project may, when recommended by the Department of Transportation, be used for the purpose of repairing, restoring, or replacing local streets, roads, or bridges to present-day standards and to accommodate present traffic.

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.

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, 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.

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.

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 street and highway 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.

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.

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.

Insert the following section within Article 5, page 93.

8690.5. Income from investment of moneys in the fund and all payments by local agencies in reimbursement of moneys disbursed from the fund, including deferred payments with charges, and all other moneys deposited therein pursuant to law, shall be available for expenditure, transfer and allocation pursuant to this chapter.