
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Senator Bill Dodd

Chair

2021 - 2022 Regular

Bill No: SB 462 **Hearing Date:** 3/9/2021
Author: Borgeas
Version: 2/16/2021 Introduced
Urgency: No **Fiscal:** Yes
Consultant: Brian Duke

SUBJECT: Disaster relief: Creek Fire: allocation to local agencies

DIGEST: This bill requires that the state share be up to 100% of total eligible costs related to the Creek Fire that started on September 4, 2020, and burned nearly 380,000 acres in the Counties of Fresno and Madera.

ANALYSIS:

Existing law:

- 1) Establishes the California Disaster Assistance Act (CDAA), which generally provides that the State must pay 75% of the non-federal share of eligible costs for any federally declared emergency. For some statutorily specified disasters, the state is required to pay 100% of the non-federal cost.
- 2) Prohibits the state share for any eligible project from exceeding 75% of total state eligible costs unless the local agency is located within the city, county, or city and county that has adopted a local hazard mitigation plan, in accordance with the federal Disaster Mitigation Act of 2000, as part of the safety element of its general plan, as specified.
- 3) Defines “local agency” to mean any city, city and county, county, county office of education, community college district, school district, or special district.

This bill adds the Creek Fire that started on September 4, 2020, in the Counties of Fresno and Madera to the list of events for which the state share of eligible costs is up to 100%.

Background

Purpose of the bill. According to the author's office, "the Creek Fire is the largest single fire in California history and the fourth-largest wildfire in modern California history. The fire burned 379,985 acres over two counties and took almost four months to contain. SB 462 would add the Creek Fire of 2020 to the list of events for which the state share of state eligible costs is up to 100% under the CDAA."

The 2020 Creek Fire. The Creek Fire began on September 4, 2020, and would go on to burn almost 380,000 acres in Counties of Fresno and Madera before being 100% contained on December 24, 2020. The fire burned mostly in the Sierra National Forest, and is the largest single fire not part of a greater complex, and the fourth-largest wildfire in modern California history. On September 6, 2020, Governor Newsom issued an emergency proclamation for the counties of Fresno, Madera, and Mariposa due to the Creek Fire. Over nearly four months, the Creek Fire caused 26 confirmed injuries of fire personnel and civilians, destroyed 856 structures, and damaged an additional 71 structures. The cause of the fire is still under investigation.

The California Disaster Assistance Act. The CDAA reimburses local governments for debris removal, emergency work, and repair or replacement of public facilities damaged by a disaster upon a Governor's proclamation. The state share of eligible expenses is 75%, and local jurisdictions are responsible for the remaining 25%. When there is a federal declaration, the Federal Emergency Management Agency (FEMA) pays 75%, and the State pays 75% of the remaining 25% of eligible costs for any state-declared emergency (18.75% of the total). For some statutorily specified disasters, the State has paid 100% of the non-federal eligible disaster mitigation costs. Existing law, AB 2140 (Hancock, Chapter 739, Statutes of 2006), prohibits the state share for any eligible project from exceeding 75% of state eligible costs unless the local agency has adopted a local hazard mitigation plan as part of the safety element of its general plan.

Recent similar legislation. The extent to which the Newsom Administration is willing to approve of statutes fully reimbursing locals for the costs of disasters is unclear at this time. Legislation adding a declared disaster to the current list of 100% reimbursable disasters in statute has yet to reach the current Governor's desk; AB 41 (Gallagher, 2019), AB 247 (Dahle, 2019), and AB 1375 (Bigelow, 2019) were all held in either the Assembly or Senate Appropriations Committee. The Brown Administration was reluctant to sign such legislation, and vetoed several bills seeking to fully reimburse the costs incurred by local governments as a result of natural disaster. Governor Brown's veto message of AB 1429 (Chesbro,

2011), which would have added the tsunami that occurred in Del Norte County in 2011 to the list of disaster events for which the state share is 100%, stated:

“The state has not paid for a local government’s share of disaster costs since 2006 and this measure would cost the state over \$1 million. In addition, if I sign this measure, other counties that sustain similar damages would likely request the same relief – a precedent that the state currently cannot afford.”

However, prior to 2006, the state share of disaster related local agency costs had been statutorily increased to 100% for the following disasters:

- a) The October 17, 1989, Loma Prieta earthquake.
- b) The October 20, 1991, East Bay fire.
- c) The fires that occurred in southern California from October 1, 1993, to November 30, 1993, inclusive.
- d) The January 17, 1994 Northridge, earthquake.
- e) Storms that occurred in California during the periods commencing January 3, 1995, and February 13, 1995, as specified.
- f) The storms that occurred in California in December of 1996, and early January of 1997, as specified.
- g) The winter storms and flooding that occurred from February 1, 1998, to April 30, 1998, inclusive, as specified.
- h) The wildfires that occurred in southern California commencing October 21, 2003, as specified.
- i) The December 22, 2003, Sam Simeon earthquake, as specified.
- j) The severe storms, flooding, debris flows, and mudslides that occurred during December 27, 2004, to January 11, 2005, inclusive, in southern California, as specified.
- k) The severe storms, flooding, landslides, and mud and debris flows that occurred in southern California during the period from February 16, 2005, to February 23, 2005, inclusive, as specified.
- l) The severe storms, flooding, mudslides, and landslides that occurred in northern California during the period from December 17, 2005, to January 3, 2006, inclusive, as specified.
- m) The severe storms and flooding that occurred in northern and central California during the period from March 29, 2006, to April 16, 2006, inclusive, as specified.
- n) The Middle River levee break in San Joaquin County that occurred in June of 2004.

This bill adds the 2020 Creek Fire to the list of events for which local agencies may receive up to 100% reimbursement from the State. According to the author’s

office, Fresno County unofficially expects costs of \$1.5 million and Madera County currently estimates approximately \$100,000. A fiscal committee of the Legislature has not yet analyzed the potential General Fund costs expected to cover the local share associated with the fire.

Prior/Related Legislation

AB 41 (Gallagher, 2019) would have required the State of California to fully reimburse local agencies for eligible costs incurred as a result of the Camp Fire that started on November 8, 2018, in the County of Butte. (Held in the Senate Appropriations Committee)

AB 247 (Dahle, 2019) would have required the State to fully reimburse local agencies for eligible costs incurred as a result of the Carr and Klamathon Fires of 2018, as specified. (Held in the Senate Appropriations Committee)

AB 1375 (Bigelow, 2019) would have increased, from 75% to 90%, the State's share of disaster-related costs connected with the tree removal in high hazard zones pursuant to a governor-declared emergency in 2015. (Held in the Assembly Appropriations Committee)

SB 937 (McGuire, 2016) would have added the forest fires that occurred in the County of Lake in 2015 to the list of events for which the state share of state eligible costs is up to 100% under the CDAA. (Held in the Senate Appropriations Committee)

AB 18 (Dodd, 2015) would have added the South Napa earthquake that occurred in Napa County on August 24, 2014 to the list of disaster events for which the State share of state eligible costs is 100%. (Held in the Senate Appropriations Committee)

AB 1429 (Chesbro, 2011) would have added the tsunami that occurred in Del Norte County on March 2011 to the list of disaster events for which the State share of state eligible costs is 100%. (Vetoed by Governor Brown)

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: No

SUPPORT:

California State Association of Counties (CSAC)

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: In support of the bill, the California State Association of Counties (CSAC) writes that, “[p]roviding relief to regions affected by significant natural disasters such as the Creek Fire is an appropriate role for the state, as envisioned by the California Disaster Assistance Act. While the state’s revenues have climbed significantly over the past decade, the revenues of counties in most regions of the state, including the Central Valley, have struggled to recover from the Great Recession over a decade ago. The devastation caused by the Creek Fire has only made their situation more difficult and this bill is an appropriate and needed response.”