



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1109/4
ARG:jld:rs

DOA:.....Byrnes, BB0358 – Expand flood damage aids appropriation to cover other disasters

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, if a highway or bridge that is not on the state trunk highway system (highway) is damaged by flood, the county or municipality having jurisdiction over the highway may petition DOT for payment of flood damage aid. Upon receipt of a petition, DOT must make an investigation and determine whether to grant aid, the amount of the aid, and the conditions under which aid is granted. In making this determination, DOT must estimate the cost of repairing or replacing the facilities damaged or destroyed by the flood and must also estimate the cost of reconstructing improved facilities if warranted. The amount of aid paid by DOT is 75 percent of the repair or replacement cost and, if reconstructing improved facilities is warranted, an additional 50 percent of the increased cost resulting from the improvement. However, if DOT's estimate of the cost of repair or improvement of the facilities is \$15,000 or less, DOT must offer the petitioner an amount of aid equal to 75 percent of the total amount of DOT's cost estimate. Unless aid is payable based on DOT's cost estimate, DOT pays aid only after the county or municipality presents to DOT, and DOT approves, certified cost statements for the repair or improvement of the facilities. Flood damage aid payments are made by DOT from a sum sufficient appropriation from the transportation fund.

This bill allows DOT to use this process to pay aid for highway damage caused by any disaster, not just floods. Under the bill, a “disaster” is defined as any of the following: 1) a severe storm, flood, fire, tornado, mudslide, or other natural event external to a highway; 2) the sudden failure of a major element or segment of the highway system due to a cause that is external to a highway; or 3) an event or recurring damage caused by any governmental unit or person acting under the direction or approval of, or permit issued by, any governmental unit and in response to an event described in item 1) or 2), above. However, for damage caused by a disaster described in item 3), above, the amount of aid paid by DOT is 70 percent, rather than 75 percent, of the facilities, repair or replacement cost and no additional payment is available for the reconstruction of improved facilities. The bill also prohibits DOT from paying disaster damage aid in excess of \$1,000,000, in connection with disaster damage resulting from a single disaster, unless the payment of aid is approved by the governor.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.395 (1) (fs) of the statutes is amended to read:

20.395 (1) (fs) *Flood Disaster damage aids, state funds.* A sum sufficient to make flood disaster damage aid payments under s. 86.34.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 83.015 (2) (b) of the statutes is amended to read:

83.015 (2) (b) In any county with a highway commissioner appointed under s. 83.01 (1) (b) or (c), the county highway committee shall be only a policy-making body determining the broad outlines and principles governing administration and the county highway commissioner shall have the administrative powers and duties prescribed for the county highway committee under par. (a), sub. (3) (a) and ss. 27.065 (4) (b) and (13), 32.05 (1) (a), 82.08, 83.01 (6), 83.013, 83.018, 83.025 (1) and (3), 83.026, 83.035, 83.04, 83.05 (1), 83.07 to 83.09, 83.12, 83.14 (6), 83.17, 83.18, 83.42 (3) and (4), 84.01 (5), 84.06 (3), 84.07 (1) and (2), 84.09 (1), (3) (a) to (c) and (4),

84.10 (1), 86.04 (1) and (2), 86.07 (2), 86.19 (3), 86.34 (1) (1m), 114.33 (5), 349.07 (2), 349.11 (4) and (10) and 349.15 (2). No statutory power, duty or function specified elsewhere for the county highway commissioner may be deemed impliedly repealed for the sole reason that reference to it has been omitted in this paragraph.

SECTION 3. 86.34 (title) of the statutes is amended to read:

86.34 (title) Flood Disaster damage aids.

SECTION 4. 86.34 (1) of the statutes is renumbered 86.34 (1m), and 86.34 (1m) (a) and (b), as renumbered, are amended to read:

86.34 **(1m)** (a) When any public highway, ~~street, alley or bridge not on the state trunk highway system~~ is damaged by flood a disaster, the county highway committee, or the governing body of the municipality having jurisdiction over the maintenance thereof of the highway, may adopt a petition for aid under this section and file a certified copy ~~thereof~~ of the petition with the department. To be eligible for aid the petition shall be filed not later than 2 months after the occurrence of the flood disaster damage, except as provided in par. (b). All such petitions shall state the dates on which the flood disaster damage occurred and as nearly as practical state the location, nature, and extent of the damage.

(b) The department may extend the filing deadline under par. (a) if it appears reasonably likely that federal disaster aid may be forthcoming or when widespread or continuous flooding disaster damage makes an evaluation of flood damage difficult.

SECTION 5. 86.34 (1g) of the statutes is created to read:

86.34 **(1g)** In this section:

(a) "Catastrophic highway failure" means the sudden failure of a major element or segment of the highway system due to a cause that is external to a highway, but

does not include any failure primarily attributable to gradual and progressive deterioration or lack of proper maintenance of a highway.

(b) "Disaster" means any of the following:

1. A severe storm, flood, fire, tornado, mudslide, or other natural event external to a highway or a catastrophic highway failure.

2. An event or recurring damage caused by any governmental unit or person acting under the direction or approval of, or permit issued by, any governmental unit and in response to an event described in subd. 1.

(c) "Governmental unit" means the state or any state agency, as defined in s. 20.001 (1); any county, city, village, town, or other political subdivision of the state; or the federal government or any of its agencies.

(d) "Highway" means a highway, as defined in s. 340.01 (22), that is not on the state trunk highway system.

SECTION 6. 86.34 (2) of the statutes is amended to read:

86.34 (2) The department shall make such investigation as it deems necessary and within 6 months from the date of filing the petition shall make its determination as to the granting of aid, the amount thereof, and the conditions under which it is granted. In making its determination the department shall cause an estimate to be made of the cost of repairing or replacing the facilities damaged or destroyed by the flood to standards and efficiency similar to those previously existing immediately before the damage or destruction, and also an estimate of the cost of reconstructing the facilities to a higher type or improving any such facilities if determined to be warranted and advisable. Except as provided in ~~sub.~~ subs. (2m) and (6), the amount of aid payable for damage caused by a disaster described in sub. (1g) (b) 1. shall be ~~three-fourths~~ 75 percent of the cost of repair or replacement to standards similar to

those ~~previously existing~~ immediately before the damage or destruction, plus ~~50%~~ 50 percent of the increased cost of the reconstruction to a higher type or the improvement of any of the facilities. Except as provided in subs. (2m) and (6), the amount of aid payable for damage caused by a disaster described in sub. (1g) (b) 2. shall be 70 percent of the cost of repair or replacement to standards similar to those existing immediately before the damage or destruction. The department may revise estimates on the basis of additional facts. The county, town, village, or city shall pay the remainder of the cost not allowed as aid, but this shall not invalidate any other provision of the statutes whereby the cost may be shared by the county and the town, village, or city.

SECTION 7. 86.34 (2m) of the statutes is amended to read:

86.34 **(2m)** If Subject to sub. (6), if the department's estimate under sub. (2) of the cost of repair or improvement of the facilities determined by the department to be eligible for aid is \$15,000 or less, the department shall offer the petitioner an amount of aid equal to ~~75%~~ 75 percent of the total amount of the department's estimate for damage caused by a disaster described in sub. (1g) (b) 1. or 70 percent of the total amount of the department's estimate for damage caused by a disaster described in sub. (1g) (b) 2. If the petitioner accepts aid under this subsection, the aid shall be paid to the petitioner or, subject to sub. (5), the county, and no other form of aid is available under this section for the repair or improvement of such facilities.

SECTION 8. 86.34 (6) of the statutes is created to read:

86.34 **(6)** The department may not pay aid under this section in excess of \$1,000,000, in connection with disaster damage resulting from a single disaster, unless the payment of aid is approved by the governor.

SECTION 9345. Initial applicability; Transportation.

(1) DISASTER AIDS.

(a) The treatment of sections 20.395 (1) (fs), 83.015 (2) (b), and 86.34 (title), (1), (1g), (2), (2m), and (6) of the statutes first applies to disasters, as defined in section 86.34 (1g) (b) 1. of the statutes, as created by this act, that occur on the effective date of this subsection.

(b) The treatment of sections 20.395 (1) (fs), 83.015 (2) (b), and 86.34 (title), (1), (1g), (2), (2m), and (6) of the statutes first applies to disasters, as defined in section 86.34 (1g) (b) 2. of the statutes, as created by this act, that occur on July 1, 2011.

(END)