

**CHAPTER 247—H.F.No. 2904**

*An act relating to state government operations; establishing procedures for state agencies to assist communities to recover from a natural disaster; proposing coding for new law as Minnesota Statutes, chapter 12A.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[12A.01] STATE RESPONSE TO NATURAL DISASTER.**

This chapter provides a framework and procedures for state agencies to assist communities to recover from a natural disaster for areas of Minnesota that are included in a presidential declaration of major disaster.

Sec. 2. **[12A.02] DEFINITIONS.**

Subdivision 1. **Application.** The definitions in this section apply to this chapter.

Subd. 2. **Appropriation.** "Appropriation" means an appropriation provided in law specifically to implement this chapter.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of the agency named in the section, unless otherwise specified.

Subd. 4. **Disaster.** "Disaster" means a presidential declaration of major disaster and the event or events cited in the declaration.

Subd. 5. **Disaster area.** "Disaster area" means the area of Minnesota included in a presidential declaration of major disaster whether included in the original declaration or added later by federal government action.

Sec. 3. **[12A.03] STATE ASSISTANCE.**

Subdivision 1. **Appropriations in law.** Appropriations for programs and projects under this chapter must be made in law. Appropriations from the bond proceeds fund must be spent to acquire and to better publicly owned land and buildings and other public improvements of a capital nature. All appropriations must be used to assist communities within the disaster area to recover.

Subd. 2. **State assistance for disaster costs not eligible for Federal Emergency Management Agency (FEMA) Public Assistance and Individual Assistance Programs; other federal assistance; or insurance.** State assistance under this chapter may be made available for relief in a disaster area for costs that are not eligible for assistance through the FEMA Public Assistance Program or the FEMA Individual Assistance Program, and may not duplicate or replace assistance available from other federal government agencies, including the Small Business Administration, private insurance, or flood insurance.

Subd. 3. **Nonduplication of Federal Emergency Management Agency (FEMA) public assistance.** State assistance may not duplicate or supplement eligible FEMA Public Assistance Program assistance. For eligible Public Assistance Program costs, any state matching money made available for that assistance must be disbursed by the Department of Public Safety to a state agency, local political subdivision, Indian tribe, or other applicant. State assistance distributed by a state agency, other than the Department of Public Safety, to a political subdivision or other applicant for disaster costs that are eligible for FEMA Public Assistance Program assistance constitutes an advance of funds. Such advances must be repaid to the applicable state agency when the applicant has received the FEMA Public Assistance Program assistance, and whatever state matching money may be made available for that assistance, from the Department of Public Safety.

Subd. 4. **Reporting.** A commissioner who provides non-FEMA Public Assistance Program grants or other assistance under this chapter to local government units or eligible entities must report to the appropriate finance chairs in the house and the senate on the criteria and requirements used by local government units or their agencies in the grants, loans, or assistance programs.

Subd. 5. **Transfers.** Unused general fund money appropriated for a project or program in this chapter may be transferred, for assistance in the disaster area, to another program or project funded in this chapter. Appropriation transfers must be used to cover unmet need in a program or project under this chapter. The commissioner of finance must approve all transfers under this section and must report each transfer to the chairs of the senate Finance Committee and house of representatives Ways and Means Committee.

#### Sec. 4. **[12A.04] AGRICULTURE.**

The commissioner may use state appropriations for disaster assistance. The commissioner, in consultation with the chairs of the house and senate committees with responsibility for agriculture finance, must develop eligibility criteria to distribute disaster assistance to affected agricultural producers according to need. Assistance may be provided for, but is not limited to, the following: livestock investment grants, organic certification assistance, forage production loss offsets for livestock producers, no-interest disaster recovery loans, other costs related to the disaster, and mental health counseling support to farm families and business operators through farm business management programs. To be eligible for disaster assistance under this section, a producer must operate an agricultural operation in the disaster area.

#### Sec. 5. **[12A.05] BOARD OF WATER AND SOIL RESOURCES.**

Subdivision 1. **Reinvest in Minnesota (RIM) conservation easements.** The board may use appropriations to acquire easements from landowners on marginal lands in the disaster area to protect soil and water quality and to support fish and wildlife habitat as provided in section 103F.515.

The board may use an appropriation, as provided in law, to implement the program.

Subd. 2. **Erosion, sediment, and water quality control cost-share program.** The board may use appropriations to install, repair, or rehabilitate erosion and sediment control projects in the disaster area to protect soil and water quality and to support fish and wildlife habitat.

The board may use an appropriation, as provided in law, to implement the program.

Subd. 3. **Waivers authorized.** (a) The board may waive the provisions of Minnesota Rules, chapter 8400, in the disaster area on land damaged by the disaster. The waiver applies to all existing and future contracts to address critical conservation problems resulting from the disaster that are funded in whole or in part with state money, to the extent that combined federal and state funding does not exceed 100 percent. All existing state cost-share grant agreements in the disaster area are extended, as provided in law.

(b) The payment maximums for improvements to the land under section 103F.515, subdivision 6, paragraph (a), clause (1), are waived for easements acquired in the disaster area on land damaged by the disaster.

#### Sec. 6. **[12A.06] EDUCATION.**

Subdivision 1. **Disaster enrollment impact aid.** The commissioner may pay disaster enrollment impact aid to a school district in an amount set in law times the number of pupils lost as a result of the disaster. An eligible district must provide to the commissioner documentation of the number of pupils in average daily membership lost as a result of the disaster.

Subd. 2. **Disaster relief facilities grant.** The commissioner may make grants to an eligible district for the costs of facilities cleanup, repair, and replacement that are related to the disaster and are not covered by the district's insurance settlement or through federal agency payments. Before a grant is awarded, the eligible school district must provide the commissioner with information as requested.

Subd. 3. **Disaster relief operating grant.** The commissioner may make grants to an eligible district for additional school operating costs related to the disaster that are not covered by the district's insurance settlement or through Federal Emergency Management Agency payments. Before a grant is awarded, the eligible school district must provide the commissioner with information as requested.

Subd. 4. **Pupil transportation aid.** The commissioner may make grants to eligible districts for the increased costs associated with transporting students as a result of the disaster.

#### Sec. 7. **[12A.07] EMPLOYMENT AND ECONOMIC DEVELOPMENT.**

Subdivision 1. **Minnesota investment fund.** The commissioner may use state appropriations for grants to local units of government for locally administered grants or loan programs as provided in this section for assistance to eligible organizations directly and adversely affected by the disaster.

Subd. 2. **Assistance.** Criteria and requirements must be locally established with the approval of the commissioner. Local plans must specify the type of assistance to be provided to eligible organizations. Within the limits of the available grant amounts, assistance may be provided as loans with or without interest and as forgivable loans. The criteria must, at a minimum, specify that an organization receiving a forgivable loan must remain in the local community a minimum of ten years after the date of the loan. Loans made under this section must not be used to refinance debt that existed on the date of the disaster. Repayment of loan amounts is made to the local community.

Subd. 3. **Eligible organizations.** Assistance through a local grant agreement may be provided to businesses, cooperatives, utilities, and nonprofit organizations including,

but not limited to, those that provide residential, health care, child care, social, or other services on behalf of the Department of Human Services to residents of the disaster area.

Subd. 4. **Use of national emergency grant.** The expenditure of any national emergency grant from the United States Department of Labor for a disaster is approved and the amount of the grant is appropriated to the commissioner for the purposes for which it was received.

To ensure the efficient use of disaster money, the commissioner must encourage contractors working on projects funded under this chapter to hire employees who are available through a grant under this subdivision, to the extent practicable.

Subd. 5. **Waivers authorized.** For the purposes of subdivisions 1 to 4, sections 116J.8731, subdivisions 3, 4, 5, and 7; 116J.993; 116J.994; and 116J.995 are waived. Businesses that receive grants or loans under this subdivision must set goals for jobs retained and wages paid within the disaster area.

## Sec. 8. **[12A.08] HEALTH.**

Subdivision 1. **Commissioner responsibilities.** In disaster-affected communities, the commissioner may provide for necessary assessment and evaluation of the following: access to health care; mental health concerns and needs; infectious disease concerns; indoor environments of public and nonprofit buildings and facilities including nursing homes and mass care facilities; food safety, lodging and shelter; public swimming pools; community and other drinking water systems; and private drinking water supply wells.

Subd. 2. **Public health.** The commissioner may take necessary steps to remediate the effects of a disaster to ensure public health is maintained.

Subd. 3. **Implementation.** To implement the requirements of this section, the commissioner may cooperate with private health care providers and facilities and community health boards or boards of health as defined in section 145A.02, provide grants to assist community health boards or boards of health, use volunteer services of individuals qualified to provide public health services, and enter into cooperative or mutual aid agreements to provide public health services.

## Sec. 9. **[12A.09] HOUSING FINANCE.**

Subdivision 1. **Economic development and housing challenge.** The economic development and housing challenge program under section 462A.33 may provide for housing assistance in the disaster area as provided in this section.

Subd. 2. **Assistance.** Within the limits of state appropriations, assistance is provided to homeowners and rental property owners as forgivable loans up to a maximum set in law. Loans may be used for capital improvements to housing damaged by the disaster, including rehabilitation, replacement on the owner's site, or replacement on a different site within the disaster area. Loans are forgiven for owner-occupied housing if the home remains the borrower's primary residence for a period of time determined by the agency to encourage continued residence in the community after the date of the loan. Loans are forgiven for rental properties if the rents remain affordable to the local work force for at least ten years after the date of the loan. The agency may set income limits in excess of the limits established in section 462A.33, subdivision 5. Eligible applicants for assistance under this subdivision must apply for and accept assistance from federal programs.

Subd. 3. **Capacity building grants.** Grants may be made under section 462A.21, subdivision 3b, to local units of government, including regional consortia, in the disaster area and nonprofit organizations working in the disaster area to assess housing and related needs, develop and implement community or regional plans to meet those needs, and provide capacity to implement recovery plans.

Subd. 4. **Waivers authorized.** For assistance under subdivision 2, the requirements of section 462A.33, subdivision 3, and Minnesota Rules, parts 4900.3632 and 4900.3634, subdivision 4, are waived.

Sec. 10. **[12A.10] HUMAN SERVICES.**

The commissioner may pay parties under contract, provider agreement, or other arrangement with the commissioner as of the date of the disaster for the costs of evacuation, transportation, or medical or remedial services provided to vulnerable residents. Costs eligible for payment under this section are those necessary to ensure the health and safety of medical assistance recipients during and up to 60 days following the disaster. To the extent allowed under the state's Medicaid state plan, the commissioner shall pay these costs from the medical assistance account.

Sec. 11. **[12A.11] MINNESOTA HISTORICAL SOCIETY.**

The Minnesota Historical Society may use state appropriations for the costs of cleanup, renovation, repair, and replacement of historic structures or other historic resources damaged by the disaster.

Sec. 12. **[12A.12] NATURAL RESOURCES.**

Subdivision 1. **Facility and natural resource damage.** The commissioner may use state appropriations to rehabilitate and replace state facilities damaged by the disaster and to restore natural resources in the disaster area.

Subd. 2. **Flood hazard mitigation grants.** The commissioner may use state appropriations for the state's share of flood hazard mitigation grants for capital improvements to prevent or alleviate flood damage under section 103F.161 in the disaster area. The commissioner shall determine project priorities, as appropriate, based on need. These funds may also be used to buy out substantially damaged structures.

To the extent that the cost of a project funded under this subdivision in a given municipality exceeds two percent of the median household income in the municipality, multiplied by the number of households in the municipality, the commissioner may also use the appropriation for the local share of the project.

Subd. 3. **Debris removal; lakes and streams.** The commissioner may use appropriations for grants to remove debris attributable to the disaster from lakes and streams.

Subd. 4. **Waivers authorized.** The maximum grant award under section 103F.161, subdivision 2, is waived for grants for the disaster area.

Sec. 13. **[12A.13] POLLUTION CONTROL AGENCY.**

Notwithstanding sections 115C.08, subdivision 4, and 115C.09, subdivision 3i, the commissioner may use an appropriation, as provided in law, from the petroleum tank release cleanup fund to make grants to safely rehabilitate buildings if a portion of the

rehabilitation cost is attributable to petroleum contamination resulting from the disaster or to buy out property substantially damaged by a petroleum tank release resulting from the disaster.

Sec. 14. **[12A.14] PUBLIC FACILITIES AUTHORITY.**

Subdivision 1. **Public infrastructure.** The Public Facilities Authority may make grants to local units of government to assist with the cost of rehabilitation and replacement of publicly owned infrastructure, including storm sewers, wastewater systems, municipal utility services, and drinking water systems. The grants must be used for costs related to the disaster for damage that occurred on or after the date of the disaster. A general fund appropriation may be used for grants to assess underground wastewater and storm water collection systems for damages related to the disaster or for feasibility studies to address the possibility of extending municipal service to residential areas with septic systems damaged as a result of the disaster.

Subd. 2. **Waivers authorized.** For the purposes of this section, criteria, limitations, and repayment requirements in sections 446A.07, 446A.072, and 446A.081 are waived.

Sec. 15. **[12A.15] PUBLIC SAFETY.**

Subdivision 1. **State match for federal assistance.** State appropriations may be used for payment of the state match for federal disaster assistance to state agencies. If authorized in law, state appropriations may be used to pay all or a portion of the local share of the match for federal funds for political subdivisions under section 12.221. An appropriation from the bond proceeds fund may be used to fund federal match obligations for publicly owned capital improvement projects resulting from the receipt of federal disaster assistance.

Subd. 2. **Grants for debris removal.** Within the limits of general fund appropriations in law, the commissioner may make grants to counties for costs related to the burial and removal of debris resulting from the disaster from residences and farms. The commissioner may require documentation of costs. Grants are available for debris removal and burial costs not covered by private insurance or federal reimbursement.

Sec. 16. **[12A.16] TRANSPORTATION.**

Subdivision 1. **Operation and maintenance.** The commissioner may use appropriations from the trunk highway fund for transportation infrastructure operation and maintenance related to a disaster.

Subd. 2. **State trunk highway and bridge damage.** The commissioner is responsible to reconstruct and repair trunk highways and trunk highway bridges located in the disaster area and damaged by the disaster.

Subd. 3. **Local road and bridge damage.** The commissioner may make grants to local governments for the capital costs of reconstructing and replacing local roads and bridges damaged or destroyed by the disaster. Before the commissioner releases grant money, a grantee must submit final plans to the commissioner for each project under this subdivision. The commissioner must determine project priorities, review project plans in light of those priorities, and, if necessary, require changes to the project plans to ensure the most prudent use of limited state resources.

Subd. 4. **Local guidelines.** The commissioner, in consultation with the commissioner of public safety, must develop guidelines for local governments to use to respond to natural disasters in order to maximize the use of federal disaster assistance. The guidelines must address the use of local employees and equipment and contracted employees and equipment in the disaster response and the relative eligibility for federal reimbursement.

Subd. 5. **Waivers authorized.** The requirements of section 174.50, subdivisions 5, 6, 6a, and 7, are waived for grants under subdivision 3.

Presented to the governor April 24, 2008

Signed by the governor April 28, 2008, 4:30 p.m.