

**Public Safety Policy Committee  
Legislative Agenda  
January 2012**

**1. FEMA Public Assistance Threshold Formula Exemption**

**Bill Summary**

This proposal would make to changes the Federal Emergency Management Agency's threshold formulas for providing disaster relief assistance to states. Under the proposal, California's thresholds would be calculated using county populations rather than the statewide population, as the current formula stands for all 50 states.

**Background**

The formula for federal assistance to states following a disaster declaration has been debated for decades. Congressman Adam Schiff (29<sup>th</sup> District) is now in the early stages of drafting legislation to improve equity in how different states receive funding from the Federal Emergency Management Agency (FEMA) through the Stafford Act.

There are many factors that FEMA considers following a Governor's disaster or state of emergency declaration before providing assistance. The first step is to determine if the losses or damages meet the threshold amount to trigger state assistance. If a disaster results in damages at a lower level than the calculated threshold, the affected public agencies in that state will not be eligible for assistance. FEMA calculates the statewide threshold by providing \$1.30 per person, based on statewide population. In California the FEMA threshold is currently \$50.3 million dollars.

In the winter of 2011, the Los Angeles region experienced severe windstorms that resulted in approximately \$34 million dollars in damages and other losses. While Governor Brown declared a state of emergency due to the extensive and far-reaching impact, it failed to qualify California for FEMA assistance because it fell short of the threshold by more than \$15 million dollars.

Congressman Schiff contends the same incident, affecting the same area and population, in a smaller state would have received assistance. By allowing California to set assistance thresholds by county population, federal assistance would be more easily and equitably accessible.

This issue is highlighted in a report titled, "FEMA's Disaster Declaration Process: A Primer" (*Francis X. McCarthy, Analyst in Emergency Management Policy, March 2011*): "Depending on the state's population, the per capita threshold may be difficult to reach. For example, the 2000 Census estimated California's population at just under 34 million people. Applying the \$1.30 per capita figure, it would require eligible public assistance damage in California to be close to \$41.5 million....Compare that level of eligible damage for California (\$41.5 million) with Nevada, a small population state according to FEMA regulations. For Nevada, with a population of just under 2 million people according to the 2000 Census, eligible public assistance damage of about \$2.4 million would make the state potentially eligible for supplemental federal assistance."

**Staff Recommendation**

Staff recommends discussion. This proposal is in its infancy and any drawbacks or concerns of creating a threshold based on county population instead of statewide population should be identified before the proposal moves forward.

## **Fiscal Impact**

Unknown at this time and would vary on the number and severity of disasters.

## **Existing League Policy**

Existing League policy states “the League supports disaster recovery legislation that includes mitigation for losses experienced by local governments.”

## **Comment**

Apples and Oranges: The current FEMA threshold formula is the same for all states, regardless of disaster-risk or prior history of need. This places states with smaller populations at a possible advantage to receive assistance because they have a lower threshold. However, smaller states may also be less capable of providing necessary support services on their own because of their smaller economic base. Also, smaller disasters could have a proportionately larger impact on smaller states in relative terms.

Show Me the Money: At the most basic level, the proposal would make it easier for California to qualify for FEMA public assistance following a disaster declaration. Other states with large populations, such as Texas and Florida, may also seek exemption based on the same grounds.

Intent to Do No Harm: All of California’s counties under this proposal would benefit from a lower threshold. Those counties with a small population would easily meet the dollar threshold, possibly with disproportionate outcomes. For instance, Del Norte county would receive FEMA assistance for disasters resulting in damages totaling \$37,000 or more. This may have a negative effect on the total pool of FEMA assistance dollars as counties with very small populations drain resources from larger incidents with wider impacts in more populous counties or states.

## **Support/Opposition**

N/A

## **2. Community Corrections Facility Peace Officer Status**

### **Bill Summary**

This measure (as proposed) would provide peace officer status to custody officers who are city or county employees serving in Community Corrections Facilities while on duty.

### **Background**

Community Corrections Facilities (CCFs) are correctional facilities that contracted with the California Department of Corrections and Rehabilitation (CDCR) to provide bed space for lower risk felony offenders. The CCFs were originally developed to help reduce overcrowded conditions in the state prison facilities. Prior to the 2011 Public Safety Realignment (Realignment) there were seven owned/operated by local agencies (one county, six cities) CCFs in the state, providing employment and an important economic base for the region.

The Realignment program made changes to how inmate populations are housed based on commitment sentence and prior convictions. This means that the inmate population that was previously eligible for a CCF term is now housed in county jail facilities. To ease possible bed shortage problems in county jails, the Realignment program package does provide that counties may contract for bed space with the CCFs. However, the current statute does not provide that custody staff, namely city employees who were staff for the CCFs when under contract with the state, would be afforded peace officer status while on duty.

This measure seeks to grant city and county employees who are custody staff in the CCFs the same peace officer status they had when the CCFs were in contract with CDCR.

**Staff Recommendation**

Staff recommends discussion as this bill is currently in draft format. However, staff asks the committee to recommend a preliminary position because this bill will be considered with urgency and a preliminary position will allow staff to take action in a timely manner.

**Fiscal Impact**

No state general fund impact. Fiscal impact largely limited to those regions operating CCFs.

**Existing League Policy**

There is no existing League policy specific to this proposal.

**Comments**

A Technical Fix is an Important Fix: This measure is very much a technical fix to align former policies and procedures under the new contracting authority. Without it, however, the new contracting authority may be useless.

All Aboard: According to the sponsors (California Cities Allied with Public Safety), all counties that have made contact with the local operating agency regarding housing inmates sentenced to county jails in their CCF want assurance that CCF custody staff would be afforded peace officer status. One county has already included the CCF in their Community Corrections Plan as a potential solution with the understanding that custody staff are given peace officer status.

Another Solution to Avoid Early Release of Inmates: The state has relied on county facilities to alleviate prison facilities overcrowding. Some county jails with population overflows have the benefit of CCFs as their “release valve” mechanism to alleviate their population overflows. Counties have expressed that without peace officer status, the CCF custody officers are only able to provide professional services similar to that of a security guard.

The Most Direct Impact of Realignment on Cities: Much of the state-level dialogue about realignment – in all service areas – focuses on the relationship between the state and county. The CCFs contracts are one of the few statutory changes directly referencing city facilities and services.

**Support/Opposition**

*Support*

Sponsor: Association of California Cities Allied with Public Safety (ACCAPS)

*Opposition*

None on file