

Senate Bill No. 1764

Passed the Senate August 21, 2008

Secretary of the Senate

Passed the Assembly August 14, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 8685.9 and 65302.6 of the Government Code, relating to disaster assistance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1764, Kehoe. Disaster assistance: certification.

(1) Existing law, the California Disaster Assistance Act, limits the state share for any eligible project to no more than 75% of total state eligible costs, except that the state share may be up to 100% for costs connected with certain events only if the local agency has adopted a local hazard mitigation plan in accordance with specified federal law.

This bill would additionally require, in response to a fire disaster, a local agency, as defined, on or after January 1, 2010, to choose whether or not to obtain and pay the actual costs for a certification by the Director of Forestry and Fire Prevention to be eligible to receive a percentage for a state share in excess of 75%. This bill would require the Director of Forestry and Fire Prevention to specify the possible percentage a local agency may receive in excess of the 75% based upon certain criteria and regulations to be promulgated by the director on or before July 1, 2009.

(2) Existing law, the Planning and Zoning Law, requires that a city, county, or city and county general plan contain a safety element for the protection of the community from specified safety risks, and authorizes a city, county, or a city and county to adopt with its safety element a federally specified local hazard mitigation plan that includes specified elements.

This bill would eliminate the requirement that adoption of the federally specified local hazard mitigation plan include required specified elements.

The people of the State of California do enact as follows:

SECTION 1. Section 8685.9 of the Government Code is amended to read:

8685.9. (a) Notwithstanding any other provision of law, including Section 8686, for any eligible project, the state share

shall not exceed 75 percent of total state eligible costs unless the local agency is located within a city, county, or city and county that has adopted a local hazard mitigation plan in accordance with the federal Disaster Mitigation Act of 2000 (P.L. 106-390) as part of the safety element of its general plan adopted pursuant to subdivision (g) of Section 65302. In that situation, the Legislature may provide for a state share of local costs that exceeds 75 percent of total state eligible costs.

(b) (1) Notwithstanding any other provision of law, for any eligible project that is in response to a fire disaster, and including the requirements of subdivision (a), the state share shall not exceed 75 percent of total state eligible costs unless the local agency chooses to obtain a certification by the Director of Forestry and Fire Prevention that the local agency was in compliance with all of the following requirements at the time of the fire disaster:

(A) The local agency had at least one of the following for each state responsibility area within its jurisdiction:

(i) Its own structural fire protection services.

(ii) A contract providing structural fire protection services by the Department of Forestry and Fire Protection that requires all state costs to provide structural fire protection be included in the contract, including, but not limited to, salaries and wages, benefits, retirement, distributed administrative costs, workers' compensation, equipment, and costs associated with entering into the contract.

(iii) Structural fire protection services from another local agency.

(B) The local agency was in compliance with Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5.

(C) If a local agency had land designated as a very high fire hazard severity zone or state responsibility area within its jurisdiction, the local agency had a fire risk reduction public education program that may include, but not be limited to, recommendations for ignition-resistant landscaping, creating and maintaining defensible space around homes and other structures, and ignition-resistant construction principles.

(2) (A) A certification by the Director of Forestry and Fire Prevention shall include the specific percentage for the possible state share in excess of 75 percent based on the quality of compliance with all of the requirements of paragraph (1).

(B) If the Director of Forestry and Fire Prevention is unable to complete an evaluation of a local agency's compliance with the requirements of paragraph (1) for any reason other than the failure of the local agency to provide necessary information in a timely manner, then the local agency is deemed to be in compliance with all of the requirements of paragraph (1) and certified for 100 percent of the possible state share.

(3) The Director of Forestry and Fire Prevention shall adopt regulations on or before July 1, 2009, to specify the standards for meeting the requirements of this subdivision that result in the certification of a percentage for the possible state share in excess of 75 percent. The regulations shall specify objective criteria for determining a local agency's compliance with this subdivision. The regulations shall set forth an administrative appeals process for a local agency to challenge the certification or denial of certification by the Director of Forestry and Fire Prevention.

(4) Paragraphs (1) and (2) shall apply to any local agency on or after January 1, 2010.

(5) For purposes of this subdivision, the following definitions shall apply:

(A) "Local agency" means any city, city and county, county, county office of education, community college district, school district, special district, or other political subdivision of the state.

(B) "Structural fire protection services" means the protection of homes or other structures from fire.

(6) If a local agency chooses to obtain a certification under this subdivision, the local agency shall pay to the Department of Forestry and Fire Prevention all actual costs for the Director of Forestry and Fire Prevention to issue the certification from any disaster assistance funds provided by the state that are related to the fire disaster for which the local agency sought certification.

SEC. 2. Section 65302.6 of the Government Code is amended to read:

65302.6. (a) A city, county, or a city and county may adopt with its safety element pursuant to subdivision (g) of Section 65302 a local hazard mitigation plan (HMP) specified in the federal Disaster Mitigation Act of 2000 (P. L. 106-390).

(b) Local jurisdictions that have not adopted a local hazard mitigation plan shall be given preference by the Office of Emergency Services in recommending actions to be funded from

the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program, and the Flood Mitigation Assistance Program to assist the local jurisdiction in developing and adopting a local hazard mitigation plan, subject to available funding from the Federal Emergency Management Agency.

Approved _____, 2008

Governor