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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **445**

01/28/2021 Authored by Mariani and Bernardy

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

02/04/2021 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to public safety; establishing State Aid For Emergencies (SAFE) account
1.3 and aid program to reimburse local governments and state agencies for expenses
1.4 incurred in responding to emergencies; requiring model policy on law enforcement
1.5 responses to public assemblies; transferring money to SAFE account; appropriating
1.6 money; proposing coding for new law in Minnesota Statutes, chapters 299A; 626.

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

1.8 Section 1. **[299A.85] STATE AID FOR EMERGENCIES (SAFE); PUBLIC SAFETY**
1.9 **REIMBURSEMENT FOR EXTRAORDINARY OR UNPLANNED INCIDENTS.**

1.10 Subdivision 1. **Purpose.** This section establishes a state public aid program to provide
1.11 cost-sharing assistance through reimbursement to local governments and state agencies
1.12 during extraordinary or unplanned public safety events that exhaust available local resources,
1.13 including mutual aid, where a local or state emergency is declared and where the
1.14 extraordinary expenses are not covered by other federal and state disaster assistance
1.15 programs.

1.16 Subd. 2. **Definitions.** (a) For purposes of this section, the terms in this subdivision have
1.17 the meanings given.

1.18 (b) "Applicant" means a state, tribal, or local entity that applies for reimbursement under
1.19 this section.

1.20 (c) "Backfill" means personnel costs incurred by a sending jurisdiction related to replacing
1.21 personnel who have been sent to the receiving jurisdiction.

1.22 (d) "Commissioner" means the commissioner of public safety.

1.23 (e) "Department" means the Department of Public Safety.

2.1 (f) "Incident period" means the period from the onset of the response to a public safety
2.2 event until mutual aid is no longer necessary.

2.3 (g) "Mutual aid" means aid rendered to, and at the request of, one state, tribal, or local
2.4 entity by another state, tribal, or local entity.

2.5 (h) "Public safety event" means an unplanned or extraordinary event or series of events:

2.6 (1)(i) that exhausts available local resources;

2.7 (ii) where life or property are endangered and local resources are inadequate to handle
2.8 the situation;

2.9 (iii) that requires mutual aid; and

2.10 (iv) where a state emergency is declared pursuant to section 12.31 or a local emergency
2.11 is declared pursuant to section 12.29; or

2.12 (2) where the State Patrol makes a specific request for assistance from a local unit of
2.13 government to support the State Patrol at a facility owned by state government, including
2.14 but not limited to the State Capitol.

2.15 (i) "Receiving jurisdiction" means a state, tribal, or local entity that is requesting resources
2.16 to respond to the public safety event.

2.17 (j) "Sending jurisdiction" means a state, tribal, or local entity that is sending resources
2.18 to respond to the public safety event.

2.19 Subd. 3. **State Aid For Emergencies (SAFE) account; appropriation.** A State Aid
2.20 For Emergencies (SAFE) account is created in the special revenue fund in the state treasury,
2.21 consisting of money deposited, donated, allotted, transferred, or otherwise provided to the
2.22 account. Money in the SAFE account is annually appropriated to the commissioner to
2.23 provide reimbursement and management costs under this section.

2.24 Subd. 4. **Eligibility criteria; considerations.** (a) Costs eligible for reimbursement under
2.25 this section are those costs associated with a public safety event incurred during the incident
2.26 period. Eligible costs are limited to:

2.27 (1) overtime costs;

2.28 (2) logistical needs, including food and lodging;

2.29 (3) incidental supplies necessary to aid in the response;

2.30 (4) backfill personnel costs incurred by a sending jurisdiction;

2.31 (5) damaged or destroyed equipment costs incurred by a sending jurisdiction;

3.1 (6) costs associated with emergency management, response and recovery planning,
3.2 mitigation of public health threats posed by the public safety event, and costs associated
3.3 with development of mitigation methods within the affected community;

3.4 (7) indemnifying personnel from a sending jurisdiction, if indemnification is required
3.5 by law, judicial order, or agreement between the receiving and sending jurisdictions; and

3.6 (8) costs incurred in producing an after-action review and report pursuant to subdivision
3.7 13.

3.8 (b) When emergency personnel of another state render aid in Minnesota pursuant to the
3.9 orders of the governor of their home state, and upon the request of the governor of Minnesota,
3.10 the commissioner may reimburse the other state from the SAFE account for:

3.11 (1) the compensation paid and actual and necessary travel, subsistence, and maintenance
3.12 expenses of the personnel of the other state while rendering aid as emergency personnel;

3.13 (2) all payments for death, disability, or injury of those personnel incurred in the course
3.14 of rendering that aid; and

3.15 (3) all losses of or damage to supplies and equipment of the other state or a governmental
3.16 subdivision of the other state resulting from the rendering of aid provided that the laws of
3.17 the other state contain provisions substantially similar to this section.

3.18 (c) If the receiving jurisdiction refused either the commissioner's request to observe the
3.19 public safety event response or the commissioner's offer of advice and counsel, the
3.20 commissioner may deny the applicant's request for reimbursement. A receiving jurisdiction
3.21 is not obligated to follow or implement the commissioner's advice or counsel. The
3.22 commissioner may not deny a receiving jurisdiction's application for reimbursement because
3.23 the receiving jurisdiction did not follow or implement the commissioner's advice or counsel.

3.24 (d) Notwithstanding section 466.01, subdivision 6, unless there is a written agreement
3.25 to the contrary, emergency response personnel retain their employment status with their
3.26 sending jurisdiction and have the same powers, duties, rights, privileges, and immunities
3.27 as if they were performing like service in the sending jurisdiction.

3.28 Subd. 5. **Reimbursement rates.** To the extent funds are available in the SAFE account,
3.29 the commissioner shall authorize reimbursement of eligible costs pursuant to the following
3.30 reimbursement rates:

3.31 (1) receiving jurisdiction applicants shall receive 75 percent of eligible costs submitted
3.32 for reimbursement; and

4.1 (2) sending jurisdiction applicants shall receive 100 percent of eligible costs submitted
4.2 for reimbursement.

4.3 Subd. 6. Reimbursement process. (a) The commissioner must develop application
4.4 materials for reimbursement and may update the materials as needed. Application materials
4.5 must include instructions and requirements for assistance under this section. These application
4.6 materials are not subject to the rulemaking requirements under chapter 14.

4.7 (b) An applicant has 30 days from the end of the incident period to request reimbursement
4.8 from the SAFE account. The commissioner may deny a late request. The applicant's request
4.9 must include:

4.10 (1) the cause, location of the public safety event, and incident period;

4.11 (2) documentation of a local, tribal, county, or state emergency declaration in response
4.12 to the public safety event; and

4.13 (3) a description of eligible expenses incurred by the applicant.

4.14 (c) An applicant may submit additional supporting documentation for up to 60 days after
4.15 the commissioner's acceptance of the initial request for reimbursement.

4.16 (d) The commissioner shall review the application and supporting documentation for
4.17 completeness and may return the application with a request for more detailed information
4.18 or correction of deficiencies. The commissioner may consult with appropriate governmental
4.19 officials to ensure the application reflects the extent and magnitude of the public safety
4.20 event and to reconcile any differences. The application is not complete until the commissioner
4.21 receives all requested information.

4.22 (e) If the commissioner returns an application with a request for more detailed information
4.23 or for correction of deficiencies, the applicant must resubmit the application with all required
4.24 information within 30 days of the applicant's receipt of the commissioner's request. The
4.25 applicant's failure to provide the requested information in a timely manner without a
4.26 reasonable explanation may be cause for denial of the application.

4.27 (f) The commissioner must approve or deny an application within 60 days of receipt of
4.28 a complete application or the application is deemed approved. If the commissioner approves
4.29 an application or the application is automatically deemed approved after 60 days, the
4.30 commissioner must provide written notification to the applicant. If the commissioner denies
4.31 an application, the commissioner must provide written notice to the applicant of the denial
4.32 and the appeal process.

5.1 Subd. 7. **Appeal process.** (a) An applicant must submit to the commissioner completed
5.2 claims for payment of actual and eligible costs on forms provided by the commissioner. All
5.3 eligible costs claimed for payment must be documented and consistent with the eligibility
5.4 provisions of this section.

5.5 (b) If the commissioner denies an applicant's claim for payment, the applicant has 30
5.6 days from receipt of the commissioner's determination to appeal in writing to the
5.7 commissioner. The appeal must include the applicant's rationale for reversing the
5.8 commissioner's determination. The commissioner has 30 days from receipt of the appeal to
5.9 uphold or modify the commissioner's determination and formally respond to the applicant.
5.10 If no written request for appeal is received, the determination is final. The applicant is
5.11 entitled to judicial review under sections 14.63 to 14.68 in the same manner that a person
5.12 aggrieved by a final decision in a contested case is entitled to judicial review. The
5.13 commissioner's determination under this section shall be a final decision of the department
5.14 for purposes of sections 14.63 to 14.68.

5.15 Subd. 8. **Closeout of application.** The commissioner must close out an applicant's
5.16 reimbursement application after all of the following occur:

5.17 (1) the applicant receives the final amount due;

5.18 (2) the applicant repays any amount recovered for eligible costs from another source
5.19 after receiving payment under this section; and

5.20 (3) any scheduled audits are complete.

5.21 Subd. 9. **Audit.** (a) An applicant must account for all funds received under this section
5.22 in conformance with generally accepted accounting principles and practices. The applicant
5.23 must maintain detailed records of expenditures to show that grants received under this
5.24 section were used for the purpose for which the payment was made. The applicant must
5.25 maintain records for five years and make the records available for inspection and audit by
5.26 the commissioner or the state auditor. The applicant must keep all financial records for five
5.27 years after the final payment, including but not limited to all invoices and canceled checks
5.28 or bank statements that support all eligible costs claimed by the applicant.

5.29 (b) The commissioner or state auditor may audit all applicant records pertaining to an
5.30 application for reimbursement or receipt of payment under this section.

5.31 Subd. 10. **Reporting reimbursement payments.** The commissioner shall post on the
5.32 department's website a list of the recipients and amounts of the reimbursement payments
5.33 made under this section.

6.1 Subd. 11. **Management costs.** The department may be reimbursed from the SAFE
6.2 account an amount of not more than five percent of the grant values as management costs.
6.3 Management costs include indirect costs, direct administrative costs, and other administrative
6.4 expenses associated with the public safety event.

6.5 Subd. 12. **Funding from other sources; repayment required.** If an applicant recovers
6.6 eligible costs from another source after receiving payment under this section, the applicant
6.7 must pay the department within 30 days an amount equal to the corresponding state funds
6.8 received. The commissioner must deposit any repayment into the SAFE account.

6.9 Subd. 13. **After-action review required.** (a) The governing body of a receiving
6.10 jurisdiction that receives funds under this section must complete an after-action review that
6.11 meets the requirements established in this subdivision. The review must be led by a person
6.12 who is not employed by a public safety agency that incurred reimbursable expenses or
6.13 participated in the response to the event.

6.14 (b) The review required under paragraph (a) must be a structured review, including
6.15 debriefing persons who responded to the public safety event, that analyzes the response to
6.16 the public safety event. The review must address but is not limited to the following topics:

6.17 (1) the applicant's expectations;

6.18 (2) a summary of events and the duties performed by those who responded to the public
6.19 safety event, including the strategies deployed;

6.20 (3) the number of citizens and public safety personnel injured or killed in the event and,
6.21 to the extent known, the cause of the injuries or deaths;

6.22 (4) a summary of the damage to property that resulted from the event;

6.23 (5) an evaluation of the performance of those who responded to the event and the
6.24 strategies deployed, including a description of successful facets of the response; and

6.25 (6) recommendations for improving or strengthening the strategies, policies, rules, and
6.26 statutes that were involved in the response to the public safety event.

6.27 (c) An after-action review report must be submitted to the chair of the Peace Officer
6.28 Standards and Training Board's Ensuring Police Excellence and Improving Community
6.29 Relations Advisory Council no later than 60 days after an applicant receives reimbursement
6.30 under this section. The applicant may withhold or redact any information that would
6.31 compromise the safety of public safety officers or compromise future responses to public
6.32 safety events.

7.1 (d) Upon submission of an after-action report that satisfies the requirements of this
7.2 subdivision, the commissioner shall reimburse an applicant for the cost of the after-action
7.3 review and report.

7.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.5 Sec. 2. **[626.8476] PUBLIC ASSEMBLY RESPONSE; POLICIES REQUIRED;**
7.6 **APPLICATION.**

7.7 Subdivision 1. **Model policy required.** By December 15, 2021, the board, in consultation
7.8 with the legislative councils of color, the American Civil Liberties Union, community
7.9 organizations that lead direct action campaigns, the Minnesota Chiefs of Police Association,
7.10 the Minnesota Sheriffs' Association, the Minnesota Police and Peace Officers Association,
7.11 and other interested parties, must develop a comprehensive model policy on responding to
7.12 public assemblies. The policy must be based on best practices in public gathering
7.13 management drawn from both domestic and international sources. The board must distribute
7.14 the model policy to all chief law enforcement officers.

7.15 Subd. 2. **Agency policies required.** (a) By March 15, 2022, the chief law enforcement
7.16 officer of every state and local law enforcement agency must establish and enforce a written
7.17 policy that is identical or substantially similar to the board's model policy described in
7.18 subdivision 1.

7.19 (b) Every state and local law enforcement agency must certify to the board that it has
7.20 adopted a written policy in compliance with this subdivision.

7.21 (c) The board must assist the chief law enforcement officer of each state and local law
7.22 enforcement agency in developing and implementing policies under this subdivision.

7.23 Subd. 3. **Application.** Each chief law enforcement officer and peace officer must comply
7.24 with the public assembly response policy adopted by the officer's department pursuant to
7.25 this section even while working in a joint law enforcement environment or outside of the
7.26 officer's primary jurisdiction.

7.27 Subd. 4. **Peace officer standards of conduct; public assembly response policy**
7.28 **violations.** A peace officer who fails to comply with the officer's department's public
7.29 assembly response policy is in violation of the peace officer standards of conduct maintained
7.30 by the Peace Officer Standards and Training Board pursuant to section 626.843, subdivision
7.31 1, clause (6). The board must revise the peace officer standards of conduct maintained in
7.32 rule to incorporate this requirement.

8.1 Subd. 5. **Compliance reviews authorized.** The board has authority to inspect state and
8.2 local law enforcement agency policies to ensure compliance with subdivision 2. The board
8.3 may conduct this inspection based upon a complaint it receives about a particular agency
8.4 or through a random selection process. The board may impose licensing sanctions and seek
8.5 injunctive relief under section 214.11 for an agency's failure to comply with subdivision 2.

8.6 Sec. 3. **STATE AID FOR EMERGENCIES (SAFE) ACCOUNT; TRANSFER.**

8.7 \$35,000,000 is transferred from the general fund to the State Aid For Emergencies
8.8 (SAFE) account in the special revenue fund created in Minnesota Statutes, section 299A.85.

8.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.10 Sec. 4. **PEACE OFFICER STANDARDS AND TRAINING BOARD;**

8.11 **APPROPRIATION.**

8.12 \$..... in fiscal year 2022 is appropriated from the general fund to the Peace Officer
8.13 Standards and Training Board to develop the model policy required under Minnesota Statutes,
8.14 section 626.8476.