



# EMERGENCY MANAGEMENT AGENCY FUNDING BY COUNTYWIDE SPECIAL LEVY

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*A White Paper for Local Emergency Management  
Commissions and County Boards of Supervisors*

February 27, 2017

*"Coming Together Is a Beginning;  
Keeping Together Is Progress;  
Working Together Is Success."*

~ Henry Ford

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## Author's Notes

Emergency Management in Iowa is an intricate web of governmental interdependencies. This network ranges from the local volunteer fire department all the way up to the White House. It is for this reason that one of the most critical aspects to any emergency management program is relationships. Emergency and disaster preparedness, response, recovery, and mitigation operations cannot be effective or efficient without healthy relationships as the chief cornerstone.

As with anything, these programs cost money. I believe it is the desire and intent of every emergency manager to be as fiscally responsible as possible with taxpayer dollars. I also believe it is the desire of every elected official to ensure their citizens are protected.

When any entity isn't clear on their respective roles, responsibilities or authorities, there can be conflict. Conflict affects the very relationships critical to any emergency management program.

A primary area where this can occur involves emergency management funding decisions, specifically when utilizing the county general supplement fund as a countywide special levy. Commissions, coordinators, supervisors and auditors around the state have wrestled with this process since the 1990's.

The sole purpose of this document is an attempt to bring the clarity to the subject in order to reduce conflict and enhance those critical local relationships necessary to develop, enhance, and sustain an effective and efficient local emergency management program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug Reed', with a stylized flourish at the end.

Doug Reed, IA-CEM

Emergency Management Director

President, Iowa Emergency Management Association

# Emergency Management Funding by Countywide Special Levy

A White Paper for Local Emergency Management Commissions and Boards of Supervisors

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## Introduction

This White Paper will explore difficulties and challenges experienced throughout the State of Iowa regarding the funding of Emergency Management Agencies. Although there are various methods to fund the agency, this White Paper will focus on the selected use of a “countywide special levy.”

The intent of this document is to inform readers of the issues and stated requirements surrounding the financing of emergency management in an effort to develop understanding and partnerships that will ensure that agencies are funded with a focus on meeting the needs of jurisdictions in service to the citizens of Iowa, as related to emergency and disaster preparedness, response, recovery and mitigation.

This White Paper is a philosophy of process and function based on a reasonable and practical interpretation of available and pertinent resource materials. It is not intended nor should it be construed as a formal legal opinion. It has been reviewed by a legal authority in its use of applicable legal citations, context and

reasonableness of conclusion as related to such citations.

## Abstract

In this paper, an all too common set of challenges and difficulties will be identified, related to the funding of emergency management by a “countywide special levy.” There will also be detailed documentation referencing Iowa Code sections related to defining emergency management and its mechanisms for funding in order to identify the foundational principle that a local emergency management commission is a separate governmental subdivision with the authority to establish a budget that will be funded as established and approved by the commission in a collaborative process including all member jurisdictions of the commission.

A workable strategy will be presented in an inclusive process that will mitigate previously experienced challenges and foster a stronger partnership between identified certifying and levying boards.

## Background

In the early 1990's, the Iowa General Assembly, following suit with the federal transition from the civil defense era to the emergency management era, created in Iowa Code Chapter 29C, a new governmental subdivision within Iowa law whose sole purpose is to establish, manage, and sustain an emergency management program to address the preparedness, mitigation, response and recovery of emergencies and disasters that could threaten or impact the State of Iowa.

This new governmental subdivision is called the Local Emergency Management Commission and subsequently, as required, establishes and administers a Local Emergency Management Agency. The Commission appoints an Emergency Management Coordinator who in turn is delegated the authority to fulfill the Commission's duties identified in Iowa Code Chapter 29C and Iowa Administrative Code section 605.

The General Assembly identified statutory members of the commissions; they are: a member of the board of supervisors, the

sheriff, and the mayor from each of the cities from within the county. This commission makeup assembles the chief executives, elected by the people, who are ultimately responsible for the public safety of the citizens within their respective jurisdictions and is now placed at a level above, as an umbrella, over the jurisdictions for the dedicated purposes identified in Iowa Code Chapter 29C. The General Assembly vested the duty and authority to coordinate and manage the overall emergency management activities with the Local Emergency Management Commissions on behalf of the jurisdictions who are represented on the commission.

Throughout the years, the law and its associated administrative rules have been amended to meet changing conditions and requirements in the delivery of emergency management services. Some of the most significant changes have been made within the past five years. These changes relate to requiring the agency to be funded and that the only commission representatives authorized to make financial determinations must be an elected official from each designated member jurisdiction on the commission.

Although these changes help ensure sustainment of an essential service for each member jurisdiction, it has also caused misunderstandings and confusion in respect to understanding the changes in 29C and how those changes differ from how the agency, regarding funding, had been managed over the previous decade.

## Problem Statement

This section will identify commonly communicated problems or challenges that have been identified by local emergency management commissions, emergency management coordinators and county boards of supervisors. The most common questions that have caused challenges or problems at the local level include:

1	Who determines how the agency is funded?
2	Who determines the agency budget?
3	Who adopts and certifies the agency budget?
4	Does the board of supervisors have the authority to alter or amend the amount to be levied?

These are important and valid questions that should be clear for all involved parties.

Unfortunately, many times there can be varying opinions on the applicable statutes and authorities that are all too often interpreted from a perspective of a single entity's normal authority, responsibilities, and past or common practices.

Local conversations regarding authority to set the budget of the emergency management agency have, at times, created significant tensions between commissions, coordinators and boards of supervisors.

There are two prevailing schools of thought: 1) the commission sets, adopts and certifies the budget making it the authority on the funding amount to be levied, or 2) the board of supervisors has the authority to amend the amount to be obligated since they are the authority that sets the amount of the overall supplemental levy, which essentially requires the commission to obtain approval from the board of supervisors on the amount that can be budgeted under a "countywide special levy."

The matter is further complicated because of previous Attorney General Opinions issued

regarding funding. For example, *Iowa Attorney General Opinion No. 92-2-7* (February 20, 1992) clearly states that the commission “has the authority to adopt a budget and certify that budget to the county board of supervisors which will levy sufficient taxes to satisfy the certified budget.” In contrast, *Iowa Attorney General Opinion No. 98-7-1(L)* (July 8, 1998) clearly communicates that a “county emergency management commission needs approval from the county board of supervisors in order to levy a special tax for funding its services.”

Since the rendering of these two contrasting opinions, Iowa Code Chapter 29C has changed in language and the latest opinion (*No. 98-7-1(L)*) no longer appears valid as it appears inconsistent with the amending of 29C as part of the 2012 Iowa Acts 1071, § 2. [*Chapter 1071 of the 2012 Iowa Acts is provided for review at Appendix D.*]

On February 12, 2013 the Attorney General’s Office issued a letter to Iowa Homeland Security and Emergency Management in an

effort to help clarify how the changes to Iowa Code Chapter 29C affected the funding authorities related to emergency management. Although not requested or filed as an official Iowa Attorney General Opinion, this clarification letter is the latest legal interpretation and perspective on how the process should be conducted under the law. [*The 2013 letter is provided for review at Appendix C.*]

The two opposing views to the common questions outlined on page 3, clearly create an opportunity for conflict or an opportunity for partnership.

Unfortunately, all too often, it has resulted in conflict creating significant tension between boards of supervisors and emergency management programs which draws attention away from protecting citizens through an effective emergency management commissions and focuses everyone’s attention on control over funding decisions.

## Applied Authorities

*Highlights and/or underscores have been added to these references to draw attention to key components related to this discussion.*

Iowa Code 29C.9 Local emergency management commissions.

§4. For the purposes of this chapter, a commission is a municipality as defined in section 670.1.

Iowa Code 670.1 Definitions. (Chapter 670 Tort Liability of Governmental Subdivisions)

§2. "Municipality" means city, county, township, school district, a chapter 28E entity as provided in section 670.4, subsection 1, paragraph "p", and any other unit of local government except soil and water conservation districts as defined in section 161A.3, subsection 6.

These sections demonstrate clarity in the fact that the commission is a governmental subdivision of the State of Iowa for the purposes identified in Iowa Code Section 29C and is set apart from the jurisdiction and administration of any particular county governing structure or single municipal governing structure.

Iowa Code 29C.17 Local emergency management fund.

§1. A local emergency management fund is created in the office of the county treasurer. Revenues provided and collected shall be deposited in the fund. An unencumbered balance in the fund shall not revert to county general revenues. Any reimbursement, matching funds, moneys received from sale of property, or moneys obtained from any source in connection with the local emergency management program shall be deposited in the local emergency management fund. The commission shall be the fiscal authority and the chairperson or vice chairperson of the commission is the certifying official.

§2. For purposes consistent with this chapter, the local emergency management agency's approved budget shall be funded by one or any combination of the following options, as determined by the commission:

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- a. A countywide special levy pursuant to section 331.424, subsection 1.
- b. Per capita allocation funded from city and county general funds or by a combination of city and county special levies which may be apportioned among the member jurisdictions.
- c. An allocation computed as each jurisdiction's relative share of the total assessed valuation within the county.
- d. A voluntary share allocation.
- e. Other funding sources allowed by law.

These sections clearly identify the commission, a separate governmental subdivision, as the **fiscal authority and certifying entity** of the emergency management agency's approved budget which **shall** be funded, as approved, by a mechanism allowed in this section and **chosen by the commission.**

Iowa Code 331.424 Supplemental levies.

To the extent that the basic levies are insufficient to meet the county's needs for the following services, the board may certify supplemental levies as follows:

§1.a. For general county services, an amount sufficient to pay the charges for the following:

(9) The maintenance and operation of a local emergency management agency established pursuant to chapter 29C.

This section identifies the General Supplemental Levy as the authorized revenue stream identified in chapter 29C for a countywide special levy.

Iowa Code 29C.17 Local emergency management fund.

§6. Subject to chapter 24, the commission shall adopt, certify, and provide a budget, on or before February 28 of each year, to the funding entities determined pursuant to subsection 2. The form of the budget shall be as prescribed by the department of management. Any portion of a tax

levied by a county or city to support the local emergency management agency shall be identified separately on tax statements issued by the county treasurer.

These sections identify who is given the authority to adopt and certify the emergency management budget. It also states that the commission, once adopting and certifying a budget will **provide** that approved budget **to** the funding entity or entities, as determined by the commission in subsection 2. Previously examined language shows that this approved budget **shall** be funded in the manner selected in subsection 2.

It further demonstrates the commission's **autonomy** by the required accountability to the taxpayer in that any tax levied for the commission by the county and/or a city will be identified separately on the tax statements attributable to the commission.

Iowa Code 24.2 Definition of terms. (Chapter 24 Local Budgets)

§2. The words "certifying board" shall mean any public body which has the power or duty to certify any tax to be levied or sum of money to be collected by taxation.

§5. "Municipality" means a public body or corporation that has power to levy or certify a tax or sum of money to be collected by taxation, except a county, city, drainage district, township, or road district.

Iowa Code 24.17 Budgets certified.

The local budgets of the various political subdivisions shall be certified by the chairperson of the certifying board or levying board, as the case may be, in duplicate to the county auditor not later than March 15 of each year on forms, and pursuant to instructions, prescribed by the department of management.

Iowa Code 24.19 Levying board to spread tax.

At the time required by law the levying board (*ref. board of supervisors*) shall spread the tax rates necessary to produce the amount required for the various funds of the municipality as certified by the

certifying board (*ref. the commission*) for the next succeeding fiscal year, as shown in the approved budget in the manner provided by law. One copy of said rates shall be certified to the state board.

The sections in chapter 24 support previous statutory identification of the commission as a municipality and certifying board for funding purposes related to their statutory obligations. The authority of a certifying board is also reiterated as part of the local budget process.

As the commission is **not** authorized by legislation to directly levy a tax, chapter 24.19 speaks to the obligation of the levying board, which in this case as authorized in chapter 29C.17, is the board of supervisors.

The levying authority, according to chapter 24.19, **shall levy** an appropriate amount in taxation to produce the funding **approved by the certifying board**; the emergency management commission, as authorized in chapter 29C.17.

Iowa Code 331.401 Duties relating to finances.

§1. The board (*ref. board of supervisors*) shall:

- k. Levy taxes as certified to it by tax-certifying bodies in the county, in accordance with the statutes authorizing the levies and in accordance with chapter 24 and sections 441.1 to 444.8, and levy taxes as required in chapters 433, 434, 437, and 438.

Iowa Code 331.422 County property tax levies.

Subject to this section and sections 331.423 through 331.426 (*ref. 331.424*) or as otherwise provided by state law, the board of each county shall certify property taxes annually at its March session to be levied for county purposes as follows:

4. Other taxes shall be levied as provided by state law. (*ref. chapter 29C.17*)

These sections further indicate a **legal obligation** of the board of supervisors to levy taxes that are certified to them by entities authorized. The authority of the commission to do so is demonstrated in chapter 29C.17 and supported by chapters 331.424 and applicable provisions of chapter 24.

## Conclusion

The funding challenges present in many counties regarding the use of the general supplemental levy are complex issues that stem from:

- historic practice which was, at the time of implementation, supported by and consistent with the law;
- assumption of organizational structure and management authorities;
- opposing personalities;
- the inability, capability, or unwillingness to adequately communicate;
- or simply a lack of knowledge related to the issue at hand.

The root of the overall issue is change and sometimes change is just difficult – difficult to keep up with, difficult to understand or difficult to accept.

These local challenges brought on by the common core questions can now hopefully be resolved within local programs and relationships.

Common questions answered in this document:

**Who determines how the agency is funded?**

- **The commission by authority of chapter 29C.17, subsection 2.**

**Who determines the agency budget?**

- **The commission by authority of chapter 29C.17, subsection 1.**

**Who adopts and certifies the agency budget?**

- **The commission by authority of chapter 29C.17, subsection 1.**

**Does the board of supervisors have the authority to alter or amend the amount to be levied?**

- **No. According to the cited code references in this document and that the Legislature "struck the requirement that the special levy be approved by the county board of supervisors". (see Appendix C and Appendix D) The board does not have a budget reduction, amendment or veto authority regarding the emergency management agency budget once approved, adopted and certified by the commission. The appropriate time to communicate concerns regarding the budget is during the budget planning process, as a member of the commission.**

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In forging a path forward, it should be acknowledged that many counties foster excellent partnerships between emergency management programs, county boards of supervisors, municipal governments and other county officials.

The budgetary planning and approval issues that have been experienced are not a systemic problem, but an issue with common questions being raised to the point where clear guidance on the authority of the commission and board of supervisors as it relates to emergency management funding is warranted.

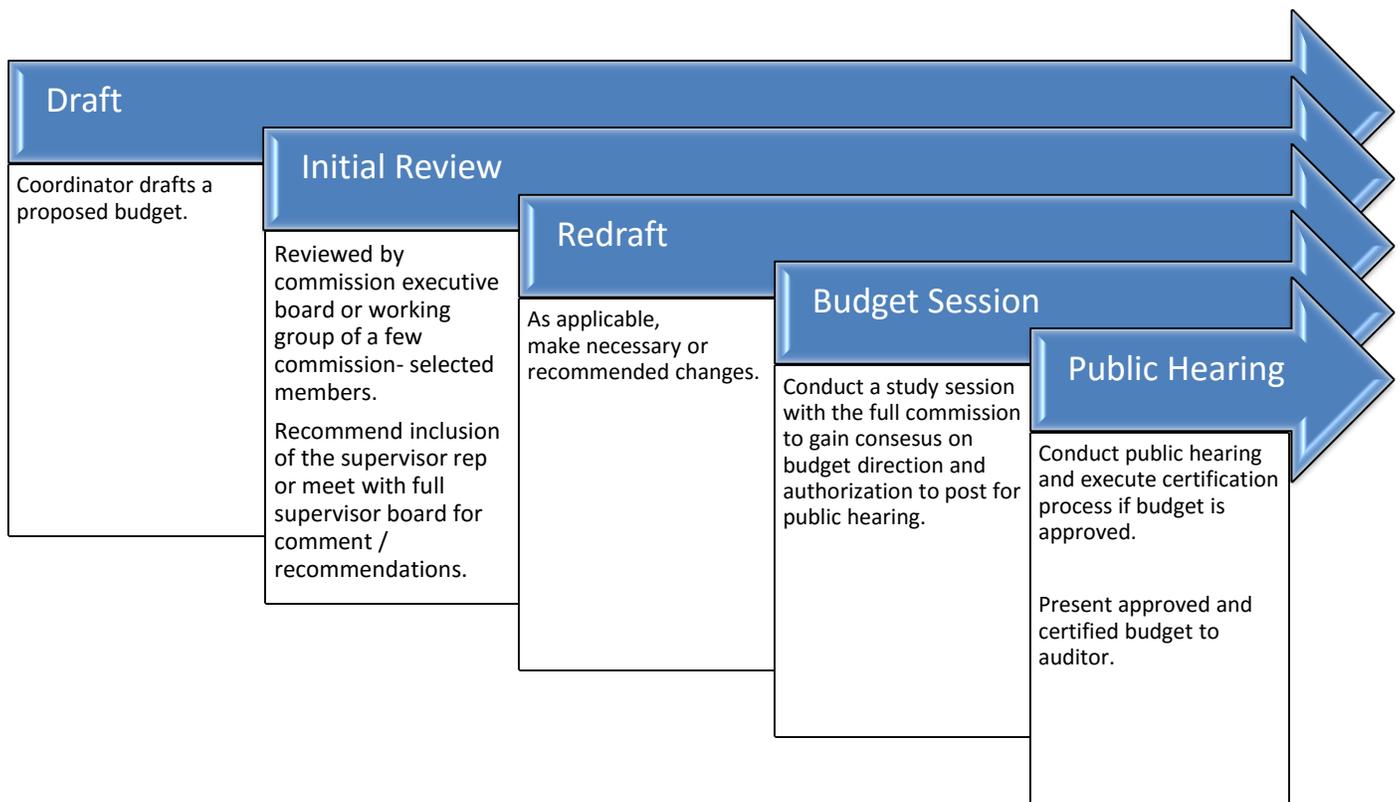
This effort and document is solely for the purpose of enhancing local collaborative relationships in the effective and efficient funding of emergency management programs in order to build sustainable communities across the state while maintaining a posture of being excellent stewards of taxpayer funding.

Without an adequately and consistently funded emergency management program, marginal advances can be made in relation to the preparedness, mitigation, response and recovery to and from the emergencies and disasters that threaten and often impact lowans.

*Only in coming together to understand the process can we then begin to focus on the work that will enhance the safety and security of our jurisdictions.*



Appendix A  
Sample Budget Process



Appendix B  
Author and Reviewers

Author

Douglas C. Reed, IA-CEM  
Emergency Management Director  
Pottawattamie County Emergency Management

Reviewers

NOTE: This section does not necessarily serve as an official position or endorsement of the conclusions on part of the reviewer, their employer(s) or organizations they may represent. The purpose and scope of the reviewers was to examine the document for accuracy in factual context and reasonableness in conclusion related to the cited materials and/or references.

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Appendix C  
Attorney General's Office Clarification Letter

THOMAS J. MILLER  
ATTORNEY GENERAL



Iowa Department of Justice

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February 12, 2013

Mr. John Benson  
HSEMD Legislative Liaison  
Camp Dodge, Bldg. W-4  
7105 NW 70<sup>th</sup> Avenue  
Johnston, Iowa 50131-1824

Re: LEMC Funding Issue

Dear Mr. Benson:

During our communications last week, you indicated that you have received information suggesting that certain local emergency management commissions have approved budgets to be funded by a special countywide special levy under Iowa Code section 29C.17(2)(a) (2013). You ask whether a county board of supervisors possesses the authority to amend or alter the amount to be obtained through the countywide special levy or is a county board of supervisors required to levy the entire amount identified by a local emergency management commission.

In 1998, this Office issued a formal Attorney General's Opinion on the question of whether a local emergency management commission needs approval from the county board of supervisors in order to levy a special tax for funding its services. Iowa Att'y Gen. Op. # 98-7-1 (1998 WL 698403). Iowa Code section 29C.17(2)(a), as it existed at the time, provided that a local emergency management commission could be funded by a "countywide special level approved by the board of supervisors." Based in part on this statutory language, this Office concluded that a "county emergency management commission needs approval from the county board of supervisors in order to levy a special tax for funding its services."

Last year, however, the Iowa Legislature amended section 29C.17(2)(a). 2012 Iowa Acts 1071, § 2. Following its amendment, section 29C.17(2)(a) now provides that a local emergency management commission shall be funded by one or more of several identified options, including a "countywide special levy pursuant to section 331.424, subsection 1." In other words, the Legislature struck the requirement that the special levy be approved by the county board of

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Mr. Benson  
February 12, 2013  
Page two

supervisors. The amended statutory language appears to be fairly straightforward and speaks for itself.

I hope this letter provides some clarity and naturally, should you have additional questions or concerns regarding this issue, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Oetker', with a long horizontal flourish extending to the right.

Matt Oetker

## Appendix D

### **CHAPTER 1071** **LOCAL EMERGENCY MANAGEMENT COMMISSIONS — FINANCIAL** **RESPONSIBILITIES**

*S.F. 413*

**AN ACT** relating to financial responsibilities of local emergency management commissions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 29C.9, subsection 2, Code Supplement 2011, is amended to read as follows:

2. The commission shall be composed of a member of the board of supervisors ~~or its appointed representative, the sheriff or the sheriff's representative, and the mayor or the mayor's representative~~ from each city within the county. ~~The commission members shall be the operations liaison officers between their jurisdiction and the commission. A commission member may designate an alternate to represent the designated entity. For any activity relating to section 29C.17, subsection 2, or chapter 24, participation shall only be by a commission member or a designated alternate that is an elected official from the same designated entity.~~

Sec. 2. Section 29C.17, subsections 2 and 5, Code Supplement 2011, are amended to read as follows:

2. For the purposes consistent with this chapter, the local emergency management agency's approved budget ~~may~~ shall be funded by one or any combination of the following options, as determined by the commission:

a. A countywide special levy approved by the board of supervisors pursuant to section 331.424, subsection 1.

b. Per capita allocation funded from city and county general funds or by a combination of city and county special levies which may be apportioned among the member jurisdictions.

c. An allocation computed as each jurisdiction's relative share of the total assessed valuation within the county.

d. A voluntary share allocation.

e. Other funding sources allowed by law.

5. Subject to chapter 24, the commission shall adopt, certify, and submit ~~provide~~ a budget, on or before February 28 of each year, to the ~~county board of supervisors and the cities for the ensuing fiscal year which will include an itemized list of the number of emergency management personnel, their salaries and cost of personnel benefits, travel and transportation costs, fixed costs of operation, and all other anticipated emergency management expenses. The salaries and compensation of agency personnel coming under the merit system as determined by the commission will include salary schedules for classes in which the salary of a class is based on merit qualifications for the positions~~ funding entities determined pursuant to subsection 2. The form of the budget shall be as prescribed by the department of management. Any portion of a tax levied by a county or city to support the local emergency management agency shall be identified separately on tax statements issued by the county treasurer.

Sec. 3. Section 29C.17, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Joint emergency response communication services under section 29C.9, subsection 6, shall be funded as provided for in the agreement entered into pursuant to chapter 28E.

Approved April 12, 2012

*"The biggest communication problem is we do not listen to understand. We listen to reply."*

~ Stephen R. Covey