

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GAC 18-04 Emergency Management
SPONSOR(S): Government Accountability Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee	22 Y, 0 N	Harrington	Williamson

SUMMARY ANALYSIS

The Division of Emergency Management (DEM) is established within the Executive Office of the Governor. DEM is responsible for administering programs to rapidly apply all available aid to communities stricken by an emergency and is the liaison with federal agencies and other public and private agencies. DEM is responsible for carrying out the State's Emergency Management Act, which includes creating a statewide comprehensive emergency management plan (CEMP). The CEMP serves as the master operations document for Florida and is the framework through which the state handles emergencies and disasters. The CEMP must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters. Additionally, each county is required to establish and maintain an emergency management program and develop a county CEMP that is consistent with the state emergency management program and state CEMP.

The bill revises various provisions relating to emergency management, including:

- Extending the number of days that a state agency employee can be authorized leave during an emergency from 15 to 20 days.
- Authorizing Florida Hurricane Catastrophe Funds to be used for local projects to enhance emergency power generation and to ensure compliance with the Americans with Disabilities Act.
- Requiring the CEMP to include the following:
 - A fuel contingency plan;
 - A requirement that the appropriate emergency support function personnel consult with a representative of the passenger rail industry;
 - A requirement that DEM use a qualified interpreter in certain emergency broadcasts; and
 - A requirement that a dedicated private sector emergency hotline be activated during a major disaster.
- Requiring county emergency management plans to include a fuel contingency plan and to provide certain information online about shelters, including which shelters are open, which are at capacity, which take pets, and when additional shelters will be opened.
- Prohibiting a public entity from holding a meeting during a declared state of emergency for purposes of discussing or voting on a budget during an imposed curfew if such entity is within the jurisdiction of the curfew.
- Directing the Department of Transportation, in consultation with railroad and fuel industries, to conduct a study examining options for using rail tank cars to facilitate the delivery of motor vehicle fuels to areas impacted by hurricane events, and address the use of tanker cars and mobile fuel transfer systems as temporary storage and dispensing facilities for motor vehicle fuels before, during, and after a hurricane.

The bill provides that an important state interest is served by ensuring proper emergency management readiness and response.

The bill may have an indeterminate negative fiscal impact on the state and local governments. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Division of Emergency Management

The Division of Emergency Management (DEM) is established within the Executive Office of the Governor as a separate budget entity.¹ The director of DEM is appointed by and serves at the pleasure of the Governor.² DEM is responsible for administering programs to rapidly apply all available aid to communities stricken by an emergency and is the liaison with federal agencies and other public and private agencies.³ DEM is responsible for carrying out the State Emergency Management Act,⁴ which includes creating a statewide comprehensive emergency management plan (CEMP).⁵

State Comprehensive Emergency Management Plan

DEM is required by law to prepare a CEMP.⁶ The CEMP serves as the master operations document for Florida and is the framework through which the state handles emergencies and disasters. The CEMP must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters.⁷

Additionally, each county is required to establish and maintain an emergency management program and develop a county CEMP that is consistent with the state emergency management program and state CEMP.⁸ Municipalities may also elect to establish an emergency management program and in doing so must comply with the guidelines for a county CEMP.⁹

State Watch Office

DEM is required to establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.¹⁰ To accomplish this directive, DEM has created the State Watch Office (SWO), a "24-hour emergency communications center and situational awareness hub" within the State Emergency Operations Center (SEOC).¹¹ The CEMP sets forth the purposes and goals of the SWO:

The SWO provides the state with a single point to disseminate information and warnings to governmental officials (federal, state and/or local) that a hazardous situation could threaten or has threatened the general welfare, health, safety, and/or property of the state's population. The SWO maintains continuous

¹ Section 14.2016, F.S.

² *Id.*

³ *Id.*; s. 252.35(1), F.S.

⁴ Sections 252.31-252.60, F.S., are known as the "State Emergency Management Act."

⁵ Section 252.35(2)(a), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 252.38(1)(a), F.S. DEM is required to adopt standards and requirements for county CEMPs, assist local governments in preparing and maintaining their CEMP's, and periodically review local government CEMPs for consistency with the state CEMP and the standards and requirements adopted by the DEM. *See* s. 252.35(2)(b), F.S.

⁹ Section 252.38(2), F.S.

¹⁰ Section 252.35(2)(a)6., F.S.,

¹¹ 2014 Comprehensive Emergency Management Plan, DIVISION OF EMERGENCY MANAGEMENT, pgs. 25-27, incorporated by reference in FLA. ADMIN. CODE. R. 27P-2.002, available at <https://floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf> (last visited February 6, 2018).

situational awareness of natural and technological hazards during non-emergency periods as well as in times of emergencies and disasters.¹²

The SWO is equipped with multiple communication networks composed of local, state, and federal emergency communications systems.¹³

Emergency Support Functions

The State Emergency Response Team (SERT) serves as the primary operational mechanism through which state assistance to local governments is managed.¹⁴ To facilitate effective operations, the SERT is organized into 18 groups called Emergency Support Functions (ESF).¹⁵ Each ESF focuses on a specific mission area and is led by a representative from the state agency that best reflects the authorities, resources, and capabilities of the ESF.¹⁶

Public Shelters

DEM currently manages a program for surveying existing public and private buildings, with the owner's written agreement, to identify which facilities are appropriately designed and located to serve as shelters in the event of an emergency.¹⁷ Public facilities, including schools, post-secondary education facilities, and other facilities owned or leased by the state or local governments, but excluding hospitals or nursing homes, which are suitable for use as public hurricane evacuation shelters must be made available at the request of the local emergency management agencies.¹⁸

The CEMP¹⁹ must include a shelter component, the Statewide Emergency Shelter Plan (plan),²⁰ with specific planning provisions and the CEMP must promote shelter activity coordination between the public, private, and nonprofit sectors.²¹ The plan must:

- Contain strategies to ensure the availability of adequate shelter space in each region of the state;
- Establish strategies for refuge-of-last-resort programs;
- Provide strategies to assist local emergency management efforts to ensure that adequate staffing plans exist for all shelters, including medical and security personnel;
- Provide for a postdisaster communications system for public shelters;
- Establish model shelter guidelines for operations, registration, inventory, power generation capability, information management, and staffing; and
- Set forth policy guidance for sheltering people with special needs.²²

DEM must address strategies for the evacuation of persons with pets in the plan and must include the requirement for similar strategies in its standards and requirements for local comprehensive emergency

¹² *Id.*

¹³ *Id.*

¹⁴ 2014 Comprehensive Emergency Management Plan, DIVISION OF EMERGENCY MANAGEMENT, incorporated by reference in FLA. ADMIN. CODE R. 27P-2.002, available at <https://floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf> (last visited February 5, 2018).

¹⁵ *Id.*

¹⁶ Section 252.35(2)(a), F.S.

¹⁷ Section 252.385(2)(a), F.S.

¹⁸ Section 252.385(4)(a), F.S.

¹⁹ FLA. ADMIN. CODE R. 27P-2.002, incorporates the CEMP by reference; *See* Comprehensive Emergency Management Plan, Division of Emergency Management, available at <https://www.floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf> (last visited February 5, 2018).

²⁰ 2018 Statewide Emergency Shelter Plan, DIVISION OF EMERGENCY MANAGEMENT, available at <https://www.floridadisaster.org/globalassets/dem/response/sesp/2018/2018-sesp-entire-document.pdf> (last visited February 5, 2018).

²¹ Section 252.35(2)(a)2., F.S.

²² *Id.*

management plans.²³ The Department of Agriculture and Consumer Services must assist DEM in determining strategies regarding evacuations of persons with pets.²⁴

The plan must be prepared and submitted to the Governor and Cabinet each even-numbered year.²⁵ The plan, among other requirements, must identify the location and square footage of existing shelters as well as shelters needed in the next five years.²⁶ The plan must include information on the availability of shelters that accept pets. The plan must also identify the types of public facilities that should be constructed to comply with emergency-shelter criteria and must recommend an appropriate and available source of funding for the additional cost of constructing emergency shelters within these public facilities.²⁷

Emergency Broadcasts - Use of Interpreters for the Deaf

ESF 14 (External Affairs) is responsible for the dissemination of information to the media and general public.²⁸ The Executive Office of the Governor Office of Communications serves as the lead agency in ESF 14. One of its primary functions is to provide clear and consistent direction to citizens before, during, and after a disaster. It is a current practice of ESF 14 to include a qualified interpreter in all televised broadcasts during emergency situations.²⁹

The Registry of Interpreters for the Deaf (RID) is a non-profit organization and national membership organization that advocates for excellence in the delivery of interpretation and transliteration services between people who use sign language and people who use spoken language.³⁰ RID encourages the growth of the profession through the establishment of a national standard for qualified sign language interpreters and transliterators, ongoing professional development, and adherence to a code of professional conduct.³¹

RID currently offers certified, associate, student, supporting, and organizational memberships.³² Certified members of RID must hold the National Interpreter Certification (NIC) or be a Certified Deaf Interpreter (CDI). Associate members must be engaged in interpreting or transliterating and enrolled in a continuing education program.³³ There are currently 564 RID certified and 299 associate members in Florida.³⁴

The NIC requires demonstrated general knowledge in the field of interpreting, ethical decision making, and interpreting skills. Candidates earn the national certification if they demonstrate professional knowledge and skills that meet or exceed the minimum professional standards³⁵ necessary to perform in a broad range of interpretation and transliteration assignments.³⁶

²³ Section 252.3568, F.S.

²⁴ *Id.*

²⁵ Section 1013.372(2), F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ 2014 Comprehensive Emergency Management Plan, Appendix XIV, DIVISION OF EMERGENCY MANAGEMENT, incorporated by reference in Fla. Admin. Code. R. 27P-2.002, available at https://floridadisaster.org/globalassets/importedpdfs/2014-esf-14-appendix_finalized.pdf (last visited February 5, 2018).

²⁹ 2018 Agency Bill Analysis for HB 1109, DIVISION OF EMERGENCY MANAGEMENT, on file with the Oversight, Transparency & Administration Subcommittee.

³⁰ About RID, REGISTRY OF INTERPRETERS FOR THE DEAF, INC. (RID), <https://www.rid.org/about-rid/> (last visited February 5, 2018).

³¹ *Id.*

³² Membership, Join/Renew Membership, RID, <https://www.rid.org/membership/join/> (last visited February 5, 2018).

³³ *Id.*

³⁴ Membership, RID, <https://www.rid.org/membership/> (last visited February 5, 2018).

³⁵ RID's Standard Practice Papers articulate the consensus of its membership by outlining standard practices and positions on various interpreting roles and issues. *See* Interpreting Resources, Standard Practice Papers, RID, <https://www.rid.org/about-rid/about-interpreting/standard-practice-papers/> (last visited February 5, 2018).

³⁶ *National Interpreter Certification (NIC)*, RID, <https://www.rid.org/rid-certification-overview/nic-certification/> (last visited February 5, 2018). This credential has been available since 2005.

A CDI has specialized training and experience in the use of gesture, mime, props, drawings, and other tools to enhance communication. Holders possess native or near-native fluency in American Sign Language and are recommended for a broad range of assignments where an interpreter who is deaf or hard-of-hearing would be beneficial.³⁷

The Florida Registry of Interpreters for the Deaf (FRID) is a non-profit corporation that initiates, sponsors, promotes, and executes policies and activities that further the profession of interpreting and transliterating.³⁸ FRID works to improve the professional lives of interpreters and to improve quality and accessibility of interpreting services for the deaf and hard-of-hearing individuals living in Florida.³⁹ Membership options include nationally certified, pre-certified associate, organizational, and supporting memberships.⁴⁰ FRID members are eligible to apply for testing and monetary scholarships to pursue national certifications such as the NIC and CDI, and other professional development opportunities.⁴¹

Beginning in 2012, FRID began a partnership with DEM, Florida Department of Health, and other emergency management personnel from across the state to discuss interpreting services and to provide training. As part of the training, officials were taught the logistics of having interpreters in public briefings, what information interpreters would need to be successful, and that the interpreter needed to remain visible in the frame at all times.⁴²

Hurricane Loss Mitigation Program

Annually, the Legislature appropriates \$10 million from the Florida Hurricane Catastrophe Fund to DEM to administer the Hurricane Loss Mitigation Program. The \$10 million must be allocated as follows:⁴³

- Seven million dollars “to improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code cooperative programs with local governments and the Federal Government; and other efforts to prevent or reduce losses or reduce the cost of rebuilding after a disaster.”
 - Forty percent of the total appropriation must be used to inspect and improve tie-downs for mobile homes.
 - Ten percent must be allocated to the Florida International University center dedicated to hurricane research.
- Three million dollars “to retrofit existing facilities used as public hurricane shelters.” Each year DEM must prioritize the use of funds for projects included in the annual report of the Shelter Retrofit Report prepared in accordance with s. 252.385(3), F.S. DEM must give funding priority to projects in regional planning council regions that have shelter deficits and to projects that maximize the use of state funds.

Money provided to DEM under this program is intended to supplement, not supplant, DEM’s other funding sources.⁴⁴ On January 1st of each year, DEM must provide a full report and accounting of activities under the program and an evaluation of such activities to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate.⁴⁵ In addition, DEM must deliver a copy of the report to the Office of

³⁷ *Certified Deaf Interpreter (CDI)*, RID, <https://www.rid.org/rid-certification-overview/cdi-certification/> (last visited February 5, 2018).

³⁸ *Mission Statement*, FLORIDA REGISTRY OF INTERPRETERS FOR THE DEAF (FRID), <http://www.fridcentral.org/> (last visited February 5, 2018).

³⁹ *About FRID*, FRID, <http://www.fridcentral.org/about-us> (last visited February 5, 2018).

⁴⁰ *New Member Online Application*, FRID, <http://www.fridcentral.org/apply-online> (last visited February 5, 2018).

⁴¹ *FRID Scholarships*, FRID, <http://www.fridcentral.org/scholarships> (last visited Jan. 25, 2018).

⁴² *FRID’s Statement on Hurricane Irma, Manatee County, and Access to Emergency Information for Florida’s Deaf Community* (Sept. 28, 2017), FRID, <http://www.fridcentral.org/FRID-Blog/5285203> (last visited February 5, 2018).

⁴³ Section 215.559, F.S.

⁴⁴ Section 215.559(5), F.S.

⁴⁵ Section 215.559(6), F.S.

Insurance Regulation (OIR) so that OIR can make recommendations to the insurance industry.⁴⁶ The funding provisions are repealed June 30, 2021.⁴⁷

Florida Disaster Volunteer Leave Act

An employee of a state agency who is a certified disaster service volunteer of the American Red Cross may be granted a leave of absence with pay for not more than 15 working days in any 12-month period to participate in specialized disaster relief services for the American Red Cross.⁴⁸ In order to be paid, the leave must be requested from the American Red Cross and approved by the employee's employing agency. If such leave is approved, the employee is not considered an employee of the state for purposes of workers' compensation while on leave. Leave may only be granted for a disaster occurring within the boundaries of the state, except that, with the approval of the Governor and Cabinet, leave may be granted for services in response to a disaster within the boundaries of the United States.⁴⁹

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. It requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed to be open and noticed to the public.

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision at which official acts are to be taken to be open to the public at all times. The board or commission must provide reasonable notice of all public meetings.⁵⁰ Minutes of a public meeting must be promptly recorded and be open to public inspection.⁵¹

No resolution, rule, or formal action is considered binding unless action is taken or made at a public meeting.⁵² Acts taken by a board or commission in violation of this requirement are considered void,⁵³ though a failure to comply with open meeting requirements may be cured by independent final action by the board or commission fully in compliance with public meeting requirements.⁵⁴

Local Government Meeting Requirements - Budget

The board of county commissioners must hold public hearings to adopt tentative and final budgets pursuant to s. 200.065, F.S.⁵⁵ The hearings must be for the purpose of hearing requests and complaints from the public regarding the budgets and the proposed tax levies and for explaining the budget and any proposed or adopted amendments. The tentative budget must be posted on the county's official website at least two days before the public hearing to consider such budget. The final budget must be posted on the website within 30 days after adoption.⁵⁶ Likewise, the governing body of each municipality must hold public meetings to adopt a budget and must post tentative and final budgets online.⁵⁷

⁴⁶ *Id.*

⁴⁷ Section 215.559(7), F.S.

⁴⁸ Section 110.120(3), F.S.

⁴⁹ *Id.*

⁵⁰ Section 286.011(1), F.S.

⁵¹ Section 286.011(2), F.S.

⁵² Section 286.011(1), F.S.

⁵³ *Grapski v. City of Alachua*, 31 So. 3d 193 (Fla. 1st DCA 2010).

⁵⁴ *Finch v. Seminole County School Board*, 995 So. 2d 1068 (Fla. 5th DCA 2008).

⁵⁵ Section 129.03(3)(c), F.S.

⁵⁶ *Id.*

⁵⁷ Section 166.241(3), F.S.

Department of Transportation – State Rail Program

The Department of Transportation (DOT) is responsible for developing and implementing a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs.⁵⁸ Specifically, DOT must:

- Provide the overall leadership, coordination, and financial and technical assistance necessary to assure the effective responses of the state's rail system to current and anticipated mobility needs;⁵⁹
- Provide technical and financial assistance to units of local government to address identified rail transportation needs;⁶⁰
- Develop and administer state standards concerning the safety and performance of rail systems, hazardous material handling, and operations;⁶¹
- Furnish required emergency rail transportation service if no other private or public rail transportation operation is available to supply the required service and such service is clearly in the best interest of the people in the communities being served;⁶² and
- Conduct research into innovative or potentially effective rail technologies and methods and maintain expertise in state-of-the-art rail developments.⁶³

Effect of the Bill

The bill extends the number of days that a state agency employee can be authorized leave during an emergency. Specifically, the bill extends the number of days from 15 to 20.

The bill authorizes Florida Hurricane Catastrophe Funds to be used for local projects to enhance emergency power generation and to ensure compliance with the Americans with Disabilities Act (ADA).

The bill amends the CEMP requirements to require the CEMP to:

- Contain a fuel contingency plan;
- Require the appropriate ESF personnel consult with a representative of the passenger rail industry;
- Direct DEM to require the use of a qualified interpreter in certain emergency broadcasts; and
- Require the activation of a dedicated private sector emergency hotline during a major disaster.

The bill requires county emergency management plans to include a fuel contingency plan and to provide certain information online about shelters, including which shelters are open, which are at capacity, which take pets, and when additional shelters will be opened.

The bill prohibits a public entity from holding a meeting during a declared state of emergency for purposes of discussing or voting on a budget during an imposed curfew if such entity is within the jurisdiction of the curfew.

The bill requires DOT, in consultation with the railroad and fuel industries, to conduct a study examining options for using rail tank cars to facilitate the delivery of motor vehicle fuels to areas of the state impacted by hurricane events. The study must address the use of tanker cars and mobile fuel transfer systems as temporary storage and dispensing facilities for motor vehicle fuels before, during, and after a hurricane. The report is due to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2018.

⁵⁸ Section 341.302, F.S.

⁵⁹ Section 341.302(1), F.S.

⁶⁰ Section 341.302(5), F.S.

⁶¹ Section 341.302(7), F.S.

⁶² Section 341.302(14), F.S.

⁶³ Section 341.302(16), F.S.

Lastly, the bill provides that an important state interest is served by ensuring proper emergency management readiness and response. Such readiness and response will ensure that the state is prepared to deal with and recover from emergencies and disasters and will reduce the vulnerabilities that threaten the life, health, and safety of its people.

B. SECTION DIRECTORY:

Section 1 amends s. 110.120, F.S., extending the number of days that certain state employees may be granted administrative leave to participate in federal disaster relief services.

Section 2 amends s. 215.559, F.S., authorizing Florida Hurricane Catastrophe Funds to be used for local projects to enhance emergency power generation and to ensure compliance with the ADA.

Section 3 amends s. 252.35, F.S., providing specified requirements for the state CEMP and county emergency management plans.

Section 4 creates s. 252.375, F.S., prohibiting public entities from holding certain meetings during a declared state of emergency during an imposed curfew if such entity is within the jurisdiction of the curfew.

Section 5 amends s. 341.302, F.S., requiring DOT to conduct a study examining the use of rail tank cars to facilitate the delivery and storage of motor vehicle fuels to areas of the state impacted by hurricane events.

Section 6 provides that an important state interest is served by ensuring proper emergency management readiness and response.

Section 7 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an indeterminate negative fiscal impact on the state and local governments.

The bill extends the number of days that an employee of a state agency may be authorized paid leave during a disaster. Although the leave is discretionary, if a state agency approves such leave, there may be a negative fiscal impact to the agency.

The bill requires the use of a qualified interpreter in certain emergency broadcasts. As such, there may be a fiscal impact associated with this requirement; however, this is DEM's current practice.

The bill requires the CEMP to require the activation of a dedicated private sector emergency hotline during a major disaster; as such, there may be costs associated with establishing the hotline, operating the hotline, and providing signage and information about the hotline to the intended users. DEM established a similar hotline during Hurricane Irma.

The bill requires a county emergency management plan to require certain information be posted online about shelters. If the counties are not already posting this information online, there may be costs for updating their websites to include such information.

Lastly, the bill requires DOT to undertake a study examining the use of rail tank cars to facilitate the delivery and storage of motor vehicle fuels to areas of the state impacted by hurricane events. DOT may incur some costs associated with this study, but the fiscal impact is expected to be insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18, of the Florida Constitution may apply because this bill requires counties to post online certain information regarding shelters; however, an exemption may apply if this bill results in an insignificant fiscal impact to local governments. If this bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.