

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1245 Division of Emergency Management

SPONSOR(S): Nehr

TIED BILLS: **IDEN./SIM. BILLS:** SB 1602

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Meadows	Williamson
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Division of Emergency Management (Division) is administratively housed in the Department of Community Affairs. The function of the Division is to ensure that Florida is prepared to respond to emergencies, recover from those emergencies, and mitigate their impacts.

The bill provides that the Division and all associated resources, rules, and existing laws are transferred from the Department of Community Affairs to the Executive Office of the Governor, by type two transfer, effective July 1, 2011. The Division of Emergency Management is renamed as the Office of Emergency Management.

Additionally, the bill revises the membership of the advisory council for the Hurricane Loss Mitigation Program. It authorizes the Florida Building Commission to appoint a member to sit on the advisory council.

Finally, the bill requests the Division of Statutory Revision to prepare a reviser's bill, to be introduced at the next regular session, to conform the Florida Statutes to changes made by the act.

The bill provides for an effective date of October 1, 2011.

The bill appears to create a fiscal impact on state government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Government organization

The State Constitution provides the executive structure of state government.¹ It provides a cap at 25 on the number of executive departments, exclusive of those specifically provided for or authorized by the State Constitution.²

Chapter 20, F.S., provides for the organizational structure of the executive branch of state government. Agencies in the executive branch are integrated into one of the departments of the executive branch to achieve maximum efficiency and effectiveness.³ Structural reorganization must be a continuing process to maximize efficiency and effectiveness in response to public needs.⁴ The departments under the executive branch must be organized under functional or program lines, and the management and coordination of state services must be improved and overlapping activities must be eliminated.⁵

Executive Branch Reorganization - Type 1 and Type 2 Transfer

The executive branch of state government may be reorganized by transferring agencies, programs, and functions to other specified departments, commissions, or offices.⁶ Chapter 20, F.S., provides for two types of transfers for the executive branch.

A type one transfer is one in which the existing agency or department is transferred intact and becomes a unit of another agency or department. The agency that is transferred by a type one transfer exercises its powers, duties, and functions as prescribed by law, subject to the review and approval of the head of the agency or department to which the transfer is made. All statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those specifically transferred elsewhere or abolished, transfer to the receiving agency.⁷

In a type two transfer, an existing agency or department of an existing agency, or parts thereof, are merged into another agency. Similar to a type one transfer, all statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those specifically transferred elsewhere or abolished, transfer to the receiving agency.⁸ Additionally, funds must be segregated in such a manner that the relation between program and revenue source, as provided by law, is retained. Finally, unless otherwise provided by law, the administrative rules of any agency or department involved that are in effect immediately before the transfer remain in effect until changed by a manner provided by law.⁹

Division of Emergency Management

Section 20.18, F.S., creates the Department of Community Affairs (DCA) and establishes the Division of Emergency Management (Division) as one of its units.¹⁰ The Division is a separate budget entity and is not subject to the control, supervision, or direction of the DCA, in any manner, including personnel,

¹ See Article IV of the State Constitution.

² Section 6, Art. IV of the State Constitution.

³ Section 20.02(2), F.S.

⁴ Section 20.02(3), F.S.

⁵ Section 20.02(5) and (6), F.S.

⁶ Section 20.06, F.S.

⁷ Section 20.06(1), F.S.

⁸ Section 20.06(2)(a), F.S.

⁹ Section 20.06(2)(c), F.S.

¹⁰ Section 20.18(2)(a), F.S.

purchasing, transactions involving personal property, and budgetary matters.¹¹ The Division has a service agreement with the DCA for professional, technical, and administrative support services.¹² The Director of the Division is appointed by and serves at the pleasure of the Governor.

The State Emergency Management Act (Act)¹³ also establishes the powers of the Division. It tasks the Division with coordinating emergency management efforts to ensure effective preparation and use of the state workforce, state resources, and facilities of the state and nation in dealing with any emergency that may occur.¹⁴ The Act assigns responsibility to the Division for maintaining a comprehensive statewide program of emergency management. The program includes:

- Preparation of a comprehensive statewide emergency management plan;
- Adopting standards and requirements for county emergency management plans;
- Ascertaining the requirements for equipment and supplies for use in an emergency;
- Coordinating federal, state, and local emergency management activities in advance of an emergency; and
- Using and employing the property, services, and resources within the state in accordance with the Act.¹⁵

The Division ensures that Florida is prepared to respond to emergencies, recover from those emergencies, and mitigate their impacts. The Division coordinates the efforts of the Federal Government with other departments and agencies of state government, with county and municipal governments and school boards, and with private agencies that have a role in emergency management.¹⁶

Florida Hurricane Loss Mitigation Program

In 1999, the Legislature created the Hurricane Loss Mitigation Program (HLMP).¹⁷ The HLMP is under the control of the Division of Emergency Management, and is funded annually by appropriations from the Legislature. On a yearly basis, the Legislature appropriates from the investment income of the Florida Hurricane Catastrophe Fund an amount of no less than \$10 million to the HLMP.¹⁸ The monies from the appropriation are utilized to strengthen structures in the state to protect against hurricane damage.

Programs under HLMP are developed in consultation with an advisory council, which consists of a representative designated by the: Chief Financial Officer, Florida Home Builders Association, Florida Insurance Council, Federation of Manufactured Home Owners, Florida Association of Counties, and Florida Manufactured Housing Association.¹⁹

Effect of Proposed Changes

Transfer of Division of Emergency Management to the Executive Office of the Governor.

Effective July 1, 2011, the bill transfers, by type two transfer, the Division of Emergency Management to the Executive Office of the Governor. It is renamed the Office of Emergency Management.

The Division's statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those specifically transferred elsewhere or abolished, transfer to the Executive Office of the Governor. In addition, all resources, rules, and existing procedures are transferred in total to the Executive Office of the Governor.

¹¹ Section 20.18(2)(a), F.S.

¹² *Id.*

¹³ Chapter 252, F.S.

¹⁴ Section 252.36(1)(a), F.S.

¹⁵ Section 252.35, F.S.

¹⁶ Section 252.35(1), F.S.

¹⁷ Section 215.559, F.S.

¹⁸ Section 215.555(7)(c), F.S.

¹⁹ Section 215.559(5), F.S.

The Office of Emergency Management (Office) is established as a separate budget entity. The Office is responsible for all professional, technical, and administrative support functions deemed necessary to carry out its responsibilities under the State Emergency Management Act. The bill provides that the Director of the Office will continue to be appointed by and serve at the pleasure of the Governor.

The name change of the Division of Emergency Management to the Office of Emergency Management creates an impact on the funding for additional positions, if those positions are needed. See Fiscal Comments section. By changing the name, the Governor's Office will be unable to claim an indirect cost rate because it is considered a central service to the state.²⁰ The Office will be unable to draw down monies for operational costs which are received from federal grants and placed in the Administrative Trust Fund, unless the name is left unchanged from the Division of Emergency Management. The grants from the federal government assist the Division with operational costs and aid for disaster recovery. By changing the name to the Office of Emergency Management the Office will have to find another funding source if additional positions are necessary. If the Division of Emergency Management remained a division instead of being incorporated into the Office of the Governor the distinction between the Governor's Office and the Division would allow for the continuation of an indirect cost plan. This bill does not provide for any funding associated with additional positions for the Office.

Florida Hurricane Loss Mitigation Program

The bill revises the membership for the advisory council for the Hurricane Loss Mitigation Program. It authorizes the Florida Building Commission to designate a representative on the council.

Division of Statutory Revision

The bill requests the Division of Statutory Revision to prepare a reviser's bill for introduction at the next regular session, to conform the Florida Statutes to changes made by the bill.

B. SECTION DIRECTORY:

Section 1 transfers the Division to the Executive Office of the Governor and renames it the "Office of Emergency Management."

Section 2 creates s. 14.2016, F.S., to establish the Office of Emergency Management in the Executive Office of the Governor.

Section 3 amends s. 20.18, F.S., to conform provisions to changes made by the act.

Section 4 amends s. 125.01045, F.S., to conform provisions to changes made by the act.

Section 5 amends s. 215.559, F.S., to revise the membership of the council for the Hurricane Loss Mitigation Program.

Section 6 amends s. 163.3178, F.S., to conform provisions to changes made by the act.

Section 7 amends s. 166.0446, F.S., to conform provisions to changes made by the act.

Section 8 amends s. 215.5586, F.S., to conform provisions to changes made by the act.

Section 9 amends s. 252.32, F.S., to conform provisions to changes made by the act.

Section 10 amends s. 252.34, F.S., to conform provisions to changes made by the act.

Section 11 amends s. 252.35, F.S., to conform provisions to changes made by the act.

Section 12 amends s. 252.355, F.S., to conform provisions to changes made by the act.

²⁰ See Cost Principles for State, Local, and Indian Tribal Governments, 70 Fed. Reg. 51910, at 12(August 31, 2005)(to be codified at 2 C.F.R. pt. 225).

Section 13 amends s. 252.61, F.S., to conform provisions to changes made by the act.

Section 14 amends s. 252.82, F.S., to conform provisions to changes made by the act.

Section 15 amends s. 252.936, F.S., to conform provisions to changes made by the act.

Section 16 amends s. 252.937, F.S., to conform provisions to changes made by the act.

Section 17 amends s. 252.943, F.S., to conform provisions to changes made by the act.

Section 18 amends s. 252.946, F.S., to conform provisions to changes made by the act.

Section 19 amends s. 282.34, F.S., to conform provisions to changes made by the act.

Section 20 amends s. 282.709, F.S., to conform provisions to changes made by the act.

Section 21 amends s. 311.115, F.S., to conform provisions to changes made by the act.

Section 22 amends s. 526.143, F.S., to conform provisions to changes made by the act.

Section 23 amends s. 526.144, F.S., to conform provisions to changes made by the act.

Section 24 amends s. 627.0628, F.S., to conform provisions to changes made by the act.

Section 25 amends s. 768.13, F.S., to conform provisions to changes made by the act.

Section 26 amends s. 943.03, F.S., to conform provisions to changes made by the act.

Section 27 amends s. 943.03101, F.S., to conform provisions to changes made by the act.

Section 28 amends s. 943.0312, F.S., to conform provisions to changes made by the act.

Section 29 amends s. 943.0313, F.S., to conform provisions to changes made by the act.

Section 30 amends s. 112.3135, F.S., to conform cross-references.

Section 31 amends s. 119.071, F.S., to conform cross-references.

Section 32 amends s. 163.03, F.S., to conform cross-references.

Section 33 amends s. 163.360, F.S., to conform cross-references.

Section 34 amends s. 175.021, F.S., to conform cross-references.

Section 35 amends s. 186.505, F.S., to conform cross-references.

Section 36 amends s. 216.231, F.S., to conform cross-references.

Section 37 amends s. 250.06, F.S., to conform cross-references.

Section 38 amends s. 339.135, F.S., to conform cross-references.

Section 39 amends s. 429.907, F.S., to conform cross-references.

Section 40 provides a directive to the Division of Statutory Revision.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The name change of the Division of Emergency Management to the Office of Emergency Management creates an impact on the funding for additional positions, if those positions are needed. By changing the name, the Governor's Office will be unable to claim an indirect cost rate because it is considered a central service to the state.²¹ The Office will be unable to draw down monies for operational costs which are received from federal grants and placed in the Administrative Trust Fund, unless the name is left unchanged from the Division of Emergency Management.

The grants from the federal government assist the Division with operational costs and aid for disaster recovery. By changing the name to the Office of Emergency Management the Office will have to find another funding source if additional positions are necessary. If the Division of Emergency Management remained a division instead of being incorporated into the Office of the Governor the distinction between the Governor's Office and the Division would allow for the continuation of an indirect cost plan.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not affect county or municipal governments.

2. Other:

None.

²¹ See Cost Principles for State, Local, and Indian Tribal Governments, 70 Fed. Reg. 51910, at 12 (August 31, 2005)(to be codified at 2 C.F.R. pt. 225).

B. RULE-MAKING AUTHORITY:

The bill does not appear to authorize nor require any additional grants of rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.