

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1245 Division of Emergency Management

**SPONSOR(S):** Government Operations Subcommittee, Nehr

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 0 N, As CS	Meadows	Williamson
2) State Affairs Committee		Meadows	Hamby

### 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 does not appear 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.<sup>1</sup> It provides a cap at 25 on the number of executive departments, exclusive of those specifically provided for or authorized by the State Constitution.<sup>2</sup>

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.<sup>3</sup> Structural reorganization must be a continuing process to maximize efficiency and effectiveness in response to public needs.<sup>4</sup> 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.<sup>5</sup>

##### 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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup>

##### 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.<sup>10</sup> 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,

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<sup>1</sup> See Article IV of the State Constitution.

<sup>2</sup> Section 6, Art. IV of the State Constitution.

<sup>3</sup> Section 20.02(2), F.S.

<sup>4</sup> Section 20.02(3), F.S.

<sup>5</sup> Section 20.02(5) and (6), F.S.

<sup>6</sup> Section 20.06, F.S.

<sup>7</sup> Section 20.06(1), F.S.

<sup>8</sup> Section 20.06(2)(a), F.S.

<sup>9</sup> Section 20.06(2)(c), F.S.

<sup>10</sup> Section 20.18(2)(a), F.S.

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

The State Emergency Management Act (Act)<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup>

#### Florida Hurricane Loss Mitigation Program

In 1999, the Legislature created the Hurricane Loss Mitigation Program (HLMP).<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

### **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.

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<sup>11</sup> Section 20.18(2)(a), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Chapter 252, F.S.

<sup>14</sup> Section 252.36(1)(a), F.S.

<sup>15</sup> Section 252.35, F.S.

<sup>16</sup> Section 252.35(1), F.S.

<sup>17</sup> Section 215.559, F.S.

<sup>18</sup> Section 215.555(7)(c), F.S.

<sup>19</sup> Section 215.559(5), F.S.

The Office of Emergency Management (Office) is responsible for all professional, technical, and administrative support functions deemed necessary to carry out its responsibilities under the State Emergency Management Act. Further, the Office must administer programs to apply rapidly all available aid to communities stricken by an emergency as defined in s. 252.34, F.S. The Office also must be the liaison between federal agencies and other public and private agencies.

The bill provides that the Director of the Office will continue to be appointed by and serve at the pleasure of the Governor.

The Office is established as a separate budget entity, as provided in the General Appropriations Act. In addition, the Office is required to prepare and submit a budget request in accordance with chapter 216, F.S.

#### 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.

Current law provides for the authorization of three million dollars to be used to retrofit existing facilities that are used as public hurricane shelters; however, the provision is set to expire on June 30, 2011. The bill extends that repeal date until June 30, 2021.

#### 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; to extend the expiration date of provisions authorizing the use of funds for specified hurricane shelters; to conform provisions to changes made by this act.

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.

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.

Section 41 provides an effective date of October 1, 2011.

## **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:**

None.

## **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.

### **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:**

The bill extends the authorization for funds to be used to retrofit existing structures that are used as public hurricane shelters from June 30, 2011, to June 30, 2021. However, the entirety of the section is scheduled to repeal June 30, 2011.

In addition, current law authorizes the appropriation of funds for the retrofitting for fiscal year 2010-2011. The sponsor may want to consider an amendment to update the fiscal year.

## **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 1, 2011, the Government Operations Subcommittee adopted two amendments and reported the bill favorably with committee substitute.

The committee substitute requires the Office of Emergency Management to prepare and submit a budget request in accordance with chapter 216, F.S. The committee substitute further provides that the

Office is the administrator of the programs that provide available aid to communities stricken by an emergency.<sup>20</sup> In addition, the Office is the liaison between federal agencies and other public and private agencies.

The committee substitute extends the expiration date for the authorization of funds to be used to retrofit existing structures that are used as public hurricane shelters from June 30, 2011, to June 30, 2021.

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<sup>20</sup> See Section 252.34, F.S.