

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 538

INTRODUCER: Community Affairs Committee; Infrastructure and Security Committee; and Senator Diaz and others

SUBJECT: Emergency Reporting

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	<u>Fav/CS</u>
2.	<u>Toman</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Proctor</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 538 directs the State Watch Office (SWO) to create and maintain a list of emergency-related reportable incidents. The list must include, but is not limited to the following:

- Major fire incidents;
- Search and rescue operations;
- Bomb threats;
- Natural hazards and severe weather;
- Public health and population protective actions;
- Animal or agricultural events;
- Environmental concerns;
- Nuclear power plant events;
- Major transportation events;
- Major utility or infrastructure events; and
- Certain military events.

Political subdivisions must notify the SWO of incidents occurring within their geographic boundaries. The SWO may develop guidelines for reporting and must annually provide the list of reportable incidents to political subdivisions.

II. Present Situation:

The SWO¹ is located in the State Emergency Operations Center in Tallahassee, FL, and is staffed by the Division of Emergency Management (DEM) Operations Officers. The SWO is Florida's official State Warning Point with the Federal Emergency Management Agency, and maintains communication systems and warning capabilities to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.^{2,3}

The SWO is staffed 24 hours a day, 7 days a week, and its primary purpose is to record, analyze and share information with local, county, state and federal partners to aid in their appropriate response. The SWO is not a dispatch center but a clearinghouse of information to be shared with other government entities who can independently act within their own agency authority and protocols.⁴ DEM's mission is to provide members of the State Emergency Response Team with the most accurate information available relating to ongoing or impending hazardous situations throughout the State and region.⁵

The SWO also maintains a direct relationship with the Florida Fusion Center,⁶ which allows both emergency management and law enforcement officials to have the most complete and up-to-date intelligence available to better serve citizens, businesses, and visitors.⁷

The SWO tracks between 8,000 and 9,000 incidents a year.⁸ They include simple fuel spills, radiological emergencies, damages from severe weather, and rocket launches from Cape Canaveral.

¹ Section 14.2016(2), F.S., establishes the State Watch Office within the Division of Emergency Management.

² Section 252.35, F.S.

³ Florida Division of Emergency Management, *State Watch Office Guide for Florida County Warning Points and PSAPs* (Published June 2015), available at <https://www.floridadisaster.org/globalassets/dem/response/operations/state-watch-office-reportable-incidents-list.pdf> (last visited Jan. 30, 2020).

⁴ Florida Division of Emergency Management, *State Watch Office Incident Reporting Guidelines* (Aug. 2011), available at <https://www.floridadisaster.org/globalassets/importedpdfs/swo-reporting-guidelines-2011.pdf> (last visited Jan. 30, 2020).

⁵ *Supra*, note 2.

⁶ The Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (Dec. 17, 2004), provided guidance on the need for each state to designate a single fusion center to serve as a hub for information sharing, access and collaboration at all levels. The Florida Fusion Center is housed within the Florida Department of Law Enforcement with a mission to protect citizens, visitors, resources, and critical infrastructure of Florida by gathering, processing, analyzing, and disseminating of terrorism, law enforcement, and homeland security information for all local, state, and federal agencies in accordance with Florida's Domestic Security Strategy.

⁷ *Supra*, note 2.

⁸ Florida Division of Emergency Management, *Program Spotlight: The Florida State Watch Office*, available at <https://floridagetaplan.wordpress.com/2015/07/17/program-spotlight-the-florida-state-watch-office/> (last visited Jan. 30, 2020).

A list of potential hazards that are reported to and monitored by the SWO are provided in the table below.⁹

Natural Hazards	Technological Hazards
<ul style="list-style-type: none"> • Hurricanes • Tornadoes • Flooding • Wildfires • Severe Thunderstorms • Severe Hot and Cold • Earthquakes 	<ul style="list-style-type: none"> • Terrorism • Mass Migration • Radiological Incidents • Hazardous Materials • Special Events (i.e. 2012 Republican National Convention, Super Bowl) • Transportation Accidents (i.e. rail, aircraft, motor vehicle, marine) • Law Enforcement Incidents

The information for these incidents is generally given to the SWO from a county Public Safety Answering Point,¹⁰ and sometimes from the general public. The collected information is logged into an incident tracking system and then disseminated to local, state, tribal, federal, and private partners to aid in their response actions.¹¹

Political subdivisions, defined as “a county or municipality created pursuant to law” in ch. 252, F.S., currently have no statutory direction on informing the state about localized emergency events or incidents in their jurisdiction(s). However, local governments currently share information regularly with the SWO regarding natural and technological hazards, so that the SWO is consistently provided with incident reports from across the state.¹² Currently, only wastewater and chemical spills are required by law to be reported to the SWO.¹³

III. Effect of Proposed Changes:

The bill creates s. 252.351, F.S., to require mandatory reporting of certain incidents by political subdivisions (i.e., counties and municipalities) to the State Watch Office (SWO). The bill provides that:

- The SWO must create and maintain a list of emergency-related reportable incidents. The list must include but is not limited to (additional information clarifying the meaning of each incident is provided in the bill):
 - Major fire incidents;
 - Search and rescue operations;

⁹ *Id.*

¹⁰ DATA.GOV, *Public Safety Answering Point (PSAP) 911 Service Area Boundaries*, available at <https://catalog.data.gov/dataset/public-safety-answering-point-psap-911-service-area-boundaries> (last visited Jan. 30, 2020), defines a Public Safety Answering Point as a facility equipped and staffed to receive 9-1-1 calls.

¹¹ *Supra*, note 7.

¹² Division of Emergency Management, *FDEM Legislative Priorities 2019-2020 (Fla. Stat. § 252)* (on file with the Senate Committee on Infrastructure and Security).

¹³ Section 403.077(2), F.S., see also Chapter 62-620, F.A.C.

- Bomb threats;
- Natural hazards and severe weather;
- Public health and population protective actions;
- Animal or agricultural events;
- Environmental concerns;
- Nuclear power plant events;
- Major transportation events;
- Major utility or infrastructure events;
- Certain military events.
- As soon as practicable following its initial response to an incident, a political subdivision must provide notification to the SWO of an incident specified on the list which occur within its geographic boundaries;
- The SWO may establish guidelines specifying the method and format a political subdivision must use when annually reporting an incident.
- Beginning December 1, 2020, and by December 1 every year thereafter, the SWO must provide the list of reportable incidents to each political subdivision.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection (a) of section 18 of the State Constitution provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Under the bill, cities and counties may incur costs relating to reporting of certain incidents. However, the mandate requirements do not apply to laws having an insignificant impact, which, for fiscal year 2020-2021, is forecast at slightly over \$2.1 million.^{14,15,16} The impact of the bill on cities and counties is indeterminate, but likely nominal.

If such costs are determined to exceed \$2.1 million in the aggregate, the bill may be binding on cities and counties if the bill contains a finding of important state interest and meets one of the exceptions specified in the State Constitution (e.g., provision of funding or a funding mechanism or enactment by vote of two-thirds of the membership of each house).

¹⁴ Fla. Const. art. VII, s. 18(d).

¹⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 30, 2020).

¹⁶ Based on the Florida Demographic Estimating Conference's December 3, 2019, population forecast for 2020 of 21,555,986. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 30, 2020).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be an insignificant negative fiscal impact to local governments for implementation of the bill. With the exception of wastewater and chemical spills,¹⁷ counties and municipalities have no statutory direction on informing the state about localized emergency events or incidents in their jurisdiction(s). However, local governments currently share information regularly with the SWO regarding natural and technological hazards, so that the SWO is consistently provided with incident reports from across the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 252.351.

¹⁷ *Supra*, note 12.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Community Affairs on February 10, 2020:

The committee substitute:

- Specifies, but does not limit, a list of 11 emergency-related reportable incidents that the State Watch Office must create and maintain and annually provide to counties and municipalities.
- Removes a requirement that the Speaker of the House of Representatives and the President of the Senate must annually receive the list of reportable incidents.

CS by Infrastructure and Security on January 21, 2020:

The committee substitute:

- Requires the DEM to annually provide the State Watch Office Reportable Incidents List to county and municipal emergency managers, the Speaker of the House of Representatives, and the President of the Senate; and
- Requires the DEM to maintain the State Watch Office Reportable Incidents List, and shall annually notify county and municipal emergency managers, the Speaker of the House of Representatives, and the President of the Senate when the list is amended by the division director.

B. Amendments:

None.