

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senator Sullivan

316-1949-99

1 A bill to be entitled
 2 An act relating to emergency management;
 3 amending s. 240.295, F.S.; prescribing duties
 4 of the Board of Regents with respect to
 5 identifying public hurricane evacuation shelter
 6 space on certain campuses; deleting a
 7 requirement for the submission of a report;
 8 revising a condition precedent to a requirement
 9 for specified building construction standards;
 10 amending s. 252.38, F.S.; revising provisions
 11 relating to the appointment, salary, and
 12 direction and control of a county emergency
 13 management agency director; amending s.
 14 252.385, F.S.; revising legislative intent;
 15 including certain private facilities within a
 16 survey of prospective public hurricane
 17 evacuation shelters; including district school
 18 boards and community college boards of trustees
 19 among those coordinating and implementing such
 20 survey; revising completion dates for the
 21 retrofitting of specified facilities; exempting
 22 the owner or lessee of a shelter scheduled for
 23 retrofitting from a requirement to make certain
 24 improvements; providing that specified public
 25 facilities be made available as public
 26 hurricane evacuation shelters; requiring the
 27 Department of Management Services to
 28 incorporate public hurricane evacuation shelter
 29 provisions into lease agreements for state
 30 agencies; providing specifications for suitable
 31 leased public facilities; amending s. 252.51,

1 F.S.; revising provisions which provide
2 exemption from liability for persons or
3 organizations who permit real estate or
4 premises to be used for sheltering persons
5 during specified emergencies; exempting the
6 state, its political subdivisions, agents, and
7 employees from liability for damages caused by
8 emergency management workers in certain
9 situations; providing exceptions; defining
10 "emergency management worker"; repealing s.
11 252.855, F.S., which requires the development
12 of consolidated reporting forms for specified
13 storage tank registration programs and single
14 annual fee payment and due date for reporting
15 required from specified petroleum distributors
16 and retail outlets; providing an effective
17 date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsection (4) of section 240.295, Florida
22 Statutes, is amended to read:

23 240.295 State University System; authorization for
24 fixed capital outlay projects.--

25 (4) The Board of Regents shall, in consultation with
26 local and state emergency management agencies, assess existing
27 facilities to identify the extent to which each campus has
28 public hurricane evacuation shelter space, ~~adequate to house~~
29 ~~those students, faculty, and employees expected to seek public~~
30 ~~shelter prior to or during a disaster and those other persons~~
31 ~~for which the campus has agreed with the local emergency~~

1 ~~management agency or other voluntary organization to provide~~
2 ~~shelter space. The board shall submit a report describing the~~
3 ~~results of its assessment to the Governor and the Legislature~~
4 ~~by February 1, 1994. At the discretion of the board, this~~
5 ~~report may be accompanied by a list of proposed improvements~~
6 ~~to existing buildings to improve shelter capacity and an~~
7 ~~estimate of the costs associated with implementing these~~
8 ~~improvements.~~ Until a county in which a campus is located has
9 sufficient public hurricane evacuation shelter space, any
10 campus building for which a design contract is entered into
11 subsequent to July 1, 1994, must be constructed in accordance
12 with public hurricane evacuation shelter standards unless the
13 board, with the concurrence of the local emergency management
14 agency or the Department of Community Affairs, exempts the
15 building or part thereof from public hurricane evacuation
16 shelter standards because of its location, size, or other
17 characteristic.

18 Section 2. Paragraph (b) of subsection (1) of section
19 252.38, Florida Statutes, is amended to read:

20 252.38 Emergency management powers of political
21 subdivisions.--Safeguarding the life and property of its
22 citizens is an innate responsibility of the governing body of
23 each political subdivision of the state.

24 (1) COUNTIES.--

25 (b) Each county emergency management agency created
26 and established pursuant to ss. 252.31-252.91 shall have a
27 director ~~who shall be appointed and have an annual salary~~
28 ~~fixed by the board of county commissioners of the county.~~ The
29 director must meet the minimum training and education
30 qualifications established in a job description approved by
31 the county. The director shall be appointed by the board of

1 county commissioners or the chief administrative officer of
2 the county, as described in chapter 125 or the county charter
3 if applicable, to serve at the pleasure of the appointing
4 authority board, subject to their direction and control, in
5 conformance with applicable resolutions, ordinances, and laws.
6 A county constitutional officer or an employee of a county
7 constitutional officer may be appointed as director following
8 prior notification to the division. Each board of county
9 commissioners shall promptly inform the division of the
10 appointment of the director and other personnel. Each director
11 has direct responsibility for the organization,
12 administration, and operation of the county emergency
13 management agency, ~~subject only to the direction and control~~
14 ~~of the governing body of the county.~~ The director shall
15 coordinate emergency management activities, services, and
16 programs within the county and shall serve as liaison to the
17 division and other local emergency management agencies and
18 organizations.

19 Section 3. Section 252.385, Florida Statutes, is
20 amended to read:

21 252.385 Public shelter space.--

22 (1) It is the intent of the Legislature that this
23 state not have a deficit of safe public hurricane evacuation
24 shelter space in any region of the state by 1998 and
25 thereafter.

26 (2) The division shall administer a program to survey
27 existing schools, universities, community colleges, and other
28 state-owned, municipally owned, and county-owned public
29 buildings and any private facility that the owner, in writing,
30 agrees to provide for use as a public hurricane evacuation
31 shelter to identify those that are appropriately designed and

1 located to serve as such shelters. The owners of the
2 facilities must ~~shall~~ be given the opportunity to participate
3 in the surveys. The Board of Regents, district school boards,
4 community college boards of trustees, and the Department of
5 Education are responsible for coordinating and implementing
6 the survey of public schools, universities, and community
7 colleges with the division or the local emergency management
8 agency.

9 (3) ~~Beginning no later than September 1, 1994,~~The
10 division shall annually provide to the President of the
11 Senate, the Speaker of the House of Representatives, and the
12 Governor a list of facilities recommended to be retrofitted
13 using state funds. State funds should be targeted to counties
14 with hurricane evacuation shelter deficits. Retrofitting
15 facilities in regions with public hurricane evacuation shelter
16 deficits shall be given first priority and should be completed
17 by 2003 ~~1998~~. All recommended ~~appropriate~~ facilities should
18 be retrofitted by 2008 ~~2003~~. The owner or lessee of a public
19 hurricane evacuation shelter that is included on the list of
20 facilities recommended for retrofitting is not required to
21 perform any recommended improvements.

22 (4)(a) Public facilities, including schools,
23 postsecondary education facilities, and other facilities owned
24 or leased by the state or local governments which are suitable
25 for use as public hurricane evacuation shelters shall be made
26 available at the request of the local emergency management
27 agencies. Such agencies shall coordinate with the appropriate
28 school board, university, community college, or local
29 governing board when requesting the use of such facilities as
30 public hurricane evacuation shelters.

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1 (b) The Department of Management Services shall
2 incorporate provisions for the use of suitable leased public
3 facilities as public hurricane evacuation shelters into lease
4 agreements for state agencies. Suitable leased public
5 facilities include leased public facilities that are solely
6 occupied by state agencies and have at least 2,000 square feet
7 of net floor area in a single room or in a combination of
8 rooms having a minimum of 400 square feet in each room. The
9 net square footage of floor area must be determined by
10 subtracting from the gross square footage the square footage
11 of spaces such as mechanical and electrical rooms, storage
12 rooms, open corridors, restrooms, kitchens, science or
13 computer laboratories, shop or mechanical areas,
14 administrative offices, records vaults, and crawl spaces.

15 Section 4. Section 252.51, Florida Statutes, is
16 amended to read:

17 252.51 Liability.--

18 (1) Any person or organization, public or private,
19 owning or controlling real estate or other premises who
20 voluntarily and without compensation grants a license or
21 privilege or otherwise permits the designation by the local
22 emergency management agency or use of the whole or any part of
23 such real estate or premises for the purpose of sheltering
24 persons during an actual, impending, mock, or practice
25 emergency, together with her or his successor in interest, if
26 any, shall not be liable for the death of, or injury to, any
27 person on or about such real estate or premises during the
28 actual, impending, mock, or practice emergency, or for loss
29 of, or damage to, the property of such person, solely by
30 reason or as a result of such license, privilege, designation,
31 or use, unless the gross negligence or the willful and wanton

1 misconduct of such person owning or controlling such real
2 estate or premises or her or his successor in interest is the
3 proximate cause of such death, injury, loss, or damage
4 occurring during such sheltering period.

5 (2) Neither the state nor any political subdivision of
6 the state, nor their agents or employees, except for bad
7 faith, gross negligence, malicious purpose, or wanton and
8 willful disregard of human rights, safety, or property, shall
9 be liable for personal injury, death, or property damage
10 sustained by any person as a result of the acts or omissions
11 of any emergency management worker complying with this chapter
12 or any order, rule, ordinance, or resolution adopted pursuant
13 to this chapter. As used in this subsection, the term
14 "emergency management worker" includes any full-time or
15 part-time paid or volunteer employee or agent of this state,
16 its political subdivisions, other states, territories, or
17 possessions, the District of Columbia, or the Federal
18 Government who is performing emergency management activities
19 in this state, subject to the order or control of or pursuant
20 to the request of the state, its agencies, or its political
21 subdivisions. The rights of any person to receive benefits to
22 which they would otherwise be entitled under any workers'
23 compensation law, any pension law, or any other federal or
24 state statute are not affected by this subsection.

25 Section 5. Section 252.855, Florida Statutes, is
26 repealed.

27 Section 6. This act shall take effect July 1, 1999.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1932

The CS differs from the bill as filed in that it:

Replaces section 2 of the bill, which addresses the appointment of county emergency management directors, to restore deleted language specifying that the director's annual salary must be set by the board; clarifies that the chief administrative officer of the county may appoint the director; specifies that a county constitutional officer or his or her employee may be appointed as director following notification to the division; and deletes the proposed prohibition on placing the director under the administrative supervision of an intermediate county agency or official;

Includes a new section to repeal section 252.855, F.S., which requires DEP and DCA to develop consolidated reporting forms for the EPCRA and storage tank programs and provides for a single annual payment fee and due date for reporting required from petroleum distributors and retail outlets; and

Makes a technical correction to the bill.