

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 Governmental Operations Committee

BILL: SB 1700

INTRODUCER: Senator Bennett

SUBJECT: Seminole Tribe of Florida/Mutual Aid Agreements

DATE: April 11, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>McElroy</u>	<u>MS</u>	Favorable
2.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
3.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	Favorable
4.	<u> </u>	<u> </u>	<u>TA</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill allows the Seminole Tribe of Florida to enter into disaster and emergency mutual aid agreements with the state and other law enforcement agencies. Currently, there is no authorization under the Florida Statutes for the Seminole Tribe of Florida to enter into such mutual aid agreements.

The bill does not appear to have a fiscal impact.

This bill creates section 285.185, Florida Statutes.

II. Present Situation:

The Florida Statutes provides for disaster and emergency assistance across jurisdictional lines through a system of mutual aid agreements. Such mutual aid agreements allow municipalities and political subdivisions of the state to access additional resources in the event a disaster or emergency overwhelms local resources.

Part 1 of ch. 23, F.S.,¹ known as the Florida Mutual Aid Act, specifies procedures allowing a law enforcement agency to enter into a mutual aid agreement with another law enforcement agency. The act recognizes the “existing and continuing possibility of the occurrence of natural or manmade disasters or emergencies and other major law enforcement problems, including those that cross jurisdictional lines....”² Further, the act provides for law enforcement mutual aid

¹ Sections 23.21 through 23.127, F.S.

² Section 23.21(1), F.S.

through the establishment of the Florida Mutual Aid Plan. The executive director of the Florida Department of Law Enforcement (FDLE) is the director of the plan and must:

- Coordinate, integrate, and implement law enforcement planning and activities for the use of mutual aid and state resources;
- Coordinate the organization and direction of the law enforcement services of the Florida Mutual Aid Plan;
- Coordinate and implement the gathering and collection of information and intelligence relating to law enforcement mutual aid or assistance from state agencies to support local law enforcement agencies in any local disaster or emergency, and provide information to state and local law enforcement agencies;
- During a state of emergency declared by the Governor under ch. 252, F.S., command, control, and coordinate all state law enforcement personnel and equipment to support local law enforcement agencies;
- Act as the liaison with the Division of the Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles in order to coordinate and integrate plans for traffic control and the participation of the department in the law enforcement operation;
- Serve as liaison and guide the flow of requests from local law enforcement for requesting law enforcement services from the Florida National Guard;
- Serve as liaison to the Governor, federal and state departments and agencies, and local law enforcement officials in order to achieve close coordination and cooperation in planning and operations in trouble areas;
- Guide the flow of law enforcement information from federal and state organizations to local law enforcement officials;
- Serve as liaison to the Attorney General in order to keep him or her informed of changes in law enforcement plans and regulations, mutual aid agreements, and current developments in all situations from a legal standpoint; and
- Do other things necessary for the implementation of this part.³

Briefly summarized, a “mutual aid agreement” consists of the following:

- A voluntary cooperation written agreement between two or more law enforcement agencies, which agreement permits voluntary cooperation and assistance of a routine law enforcement nature across jurisdictional lines;
- A requested operational assistance written agreement between two or more law enforcement agencies, which agreement is for the rendering of assistance in a law enforcement emergency; or
- A combination of these agreements.⁴

Section 252.40, F.S., authorizes the governing body of each political subdivision of the state to develop and enter into mutual aid agreements with the state for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted. These agreements must be consistent with the state comprehensive emergency management plan. Further, it is the

³ Section 23.1231(2)(a) – (j), F.S. Discretionary duties of the FDLE are set forth in subsection (3) of the statute.

⁴ Section 23.1225, F.S.

duty of each emergency management agency in time of emergency to render assistance in accordance with the provisions of such mutual aid agreements to the fullest extent possible.

The Division of Emergency Management administers the Statewide Mutual Aid Agreement pursuant to ch. 252, F.S.⁵ This agreement, made between the division and the local government signing the agreement, allows a participating party to request assistance from any other participating party or from the division. The agreement sets forth the responsibilities of parties requesting assistance as well as the responsibilities of parties rendering assistance. The division publishes an agreement document that provides the requirements, forms, and procedures necessary for a party to execute the agreement.

III. Effect of Proposed Changes:

Currently, under the Florida Statutes, there is no authorization for entities other than municipalities or political subdivisions of the state to enter into disaster and emergency mutual aid agreements with the state and other law enforcement agencies.⁶ This bill allows the Seminole Tribe of Florida to enter into any existing mutual aid plan, arrangement, or agreement including the Florida Mutual Aid Plan and the Statewide Mutual Aid Agreement if it so desires, and provides procedures to enter into such a plan or agreement. The bill does not indicate that an existing mutual aid agreement is limited to a mutual aid agreement that exists at the time the legislation is implemented. The bill does not indicate that the Seminole Tribe may enter into a new mutual aid agreement as an original party who has negotiated with other parties and agreed to the mutual aid agreement; as the bill is written, a precondition for the Seminole Tribe of Florida's entry into a mutual aid agreement is the existence of the agreement.

The bill does not preclude a party to the existing mutual aid agreement from leaving the plan if the party objects to the entry of the Seminole Tribe of Florida into the agreement. The mutual aid agreement is a written agreement voluntarily entered into by the parties. According to general counsel for FDLE, most mutual aid agreements have some sort of language indicating a party may drop out upon written notice to the other parties. There may or may not be conditions for dropping out stated in the agreement.⁷

The bill provides that if the Seminole Tribe of Florida enters into an existing mutual aid plan, arrangement, or agreement, the Division of Emergency Management and the Florida Department of Law Enforcement must abide by the terms of the plan, arrangement, or agreement and assist the Seminole Tribe of Florida pursuant to s. 252.35, F.S., and the Florida Mutual Aid Act.

The bill allows the parties to modify the provisions of the mutual aid plan, arrangement, or agreement in order to carry out the provisions of Chapter 285, F.S., relating to Indian Reservations and Affairs.

The bill provides for an effective date of July 1, 2008.

⁵ Section 252.35, F.S., sets forth the division's emergency management powers.

⁶ Sections 23.1225 (1) (d) and 252.40 (1), F.S.

⁷ The general counsel for FDLE indicates that a party dropping out may or may not affect the agreement's viability or require a new agreement. For example, a mutual aid agreement may not be viable if a party dropping out of the agreement performed a function vital to the overall activity contemplated by the mutual aid agreement.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Departments of Community Affairs and Law Enforcement do not believe the bill will have a fiscal impact on their departments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.