

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 Governmental Oversight and Accountability

BILL: CS/SB 620

INTRODUCER: Senator Richter

SUBJECT: Emergency Management

DATE: March 11, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	Favorable
2.	<u>Peacock</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 620 provides that the per diem expense reimbursement limitations under s. 112.061(6), F.S., do not apply to state employees traveling on an Emergency Management Assistance Compact (EMAC) mission when such expenses are reimbursed pursuant to an amount agreed upon in an interstate mutual aid request for assistance.

EMAC is an agreement between all 50 states to provide each other mutual assistance in managing an emergency or disaster declared by the governor of the affected state. EMAC directs all member states that receive aid from another member state pursuant to EMAC to reimburse the aiding member state for its expenses. Florida's current per diem limits may prevent a state employee from being fully reimbursed when certain EMAC missions take place in states where expenses exceed authorized reimbursement levels.

II. Present Situation:

Florida Division of Emergency Management

Florida's Division of Emergency Management (DEM) administers programs to rapidly apply all available aid to communities stricken by emergency.¹ The DEM is responsible for maintaining a

¹ Section 14.2016, F.S. The term "emergency" is defined in s. 252.34(3), F.S., as "any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property".

comprehensive statewide program of emergency management to ensure that Florida is prepared to respond to emergencies, recover from them, and mitigate against their impacts. In doing so, DEM coordinates efforts with and among the federal government, other state agencies, local governments, school boards, and private agencies that have a role in emergency management.² DEM is administratively housed within the Executive Office of the Governor,³ and the Governor appoints DEM’s Director, who is responsible for all matters under DEM’s jurisdiction.

Emergency Management Assistance Compact

Although DEM's primary role is to assist Florida communities, DEM also coordinates Florida's emergency assistance to other states. Accordingly, DEM manages Florida's participation in the Emergency Management Assistance Compact (EMAC).⁴

EMAC is an agreement between all 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and all other United States territorial possessions to provide each other mutual assistance in managing an emergency or disaster declared by the governor of the affected state.⁵ The emergency may arise from a natural or manmade disaster, technological hazard, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.⁶

The U.S. Congress passed a joint resolution that granted consent for the creation of EMAC in 1996.⁷ The Florida Legislature authorized Florida's participation in EMAC the same year.⁸

EMAC offers assistance through a responsive, straightforward system that allows states to send personnel, equipment, and commodities to help disaster relief efforts in other states.⁹ The DEM acts as the conduit to coordinate the exchange of resources through EMAC. Since 2010 the DEM has deployed the following 143 personnel assets to other states:¹⁰

Mission	Number Deployed	Location	Event
Deputy Operations Chief	1	Hawaii	Hurricanes Julio / Iselle (2014)
Hazard mitigation grant experts	2	Colorado	Flood (2013)
Public information specialist to assist with operations Joint Field Office	2	Alaska	Flood (2013)
State Volunteer Agency Liaison	1	Alaska	Flood (2013)
Law enforcement strike teams	28	New Jersey	Hurricane Sandy (2012)
Region IV Support Team to assist in staffing Emergency Operations Center	10	New York	Hurricane Sandy (2012)
Donations Management Coordinator	1	New Jersey	Hurricane Sandy (2012)

² Section 252.35(1), F.S.

³ Section 14.2016, F.S.

⁴ See ss. 252.921-252.933, F.S.

⁵ Section 252.922, F.S.

⁶ Section 251.922(2), F.S.

⁷ Public Law 104-321 - Oct. 19, 1996.

⁸ Chapter 96-244, L.O.F.

⁹ Emergency Management Assistance Compact website. *What is EMAC?* <http://www.emacweb.org/index.php/learnaboutemac/what-is-emac> (last visited February 18, 2015).

¹⁰ E-mail correspondence with the Florida Division of Emergency Management on Feb. 19, 2015. (On file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee.)

Personnel able to support NYC Emergency Operations Center	14	New York	Hurricane Sandy (2012)
Donations Coordinator	1	New York	Hurricane Sandy (2012)
Governor's Office of Volunteerism	1	New Jersey	Hurricane Sandy (2012)
Finance personnel to assist NYC Emergency Operations Center	1	New York	Hurricane Sandy (2012)
Field operations (door to door)	2	New York	Hurricane Sandy (2012)
Request for assistance with mass care/feeding	2	Maryland	Hurricane Sandy (2012)
Need for mitigation officer	2	Vermont	Hurricane Irene (2011)
Emergency Support Function 6: Mass Care support	1	New Jersey	Hurricane Irene (2011)
Donations Manager	1	New York	Tropical Storm Lee (2011)
Emergency Operations Center support team	17	New York	Hurricane Irene (2011)
Mitigation personnel	3	Tennessee	Flood (2011)
Cadaver Dog Team	7	Alabama	Tornadoes (2011)
Communication teams	2	Alabama	Tornadoes (2011)
Volunteer donations coordinator	1	Missouri	Tornadoes (2011)
Volunteer donations coordinator	1	Alabama	Tornadoes (2011)
Public Information Officer	2	Alabama	Tornadoes (2011)
Individual Assistance Personnel	5	Mississippi	Severe weather (2011)
Air Craft Crew Chiefs for oil spill	15	Louisiana	Deep Water Horizon (2010)
National Guard	20	Louisiana	Deep Water Horizon (2010)

There are two main parties who participate in the EMAC process: the state who requests assistance (requesting state) and the state who deploys resources (assisting state). In order to execute an agreement, both parties must follow these steps:¹¹

1. Governor declares a state of emergency due to a natural or man-made disaster/emergency.
2. Affected state assesses resource needs and identifies shortfalls for which assistance will be requested.
3. State requests resources from EMAC member states through the state emergency management agencies.
4. State emergency management personnel and local resource providers work together to identify available resources and estimated mission costs.
5. The requesting and assisting states execute the EMAC Form REQ-A.¹²
6. Personnel deploying under EMAC are given a Mission Order Authorization Form which outlines the mission, helpful information, and guidance.
7. Resources are sent to the requesting state from the assisting state (i.e. mobilized and deployed).
8. When mission is completed, resources return to home state (i.e. demobilized and redeployed).
9. Deployed personnel provide receipts/records and work with home state to develop and review reimbursement package(s).

¹¹ EMAC Library, *Being Deployed Under EMAC? What You Need to Know*, EMACWeb.org, <http://www.emacweb.org/index.php/mutualaidresources/emac-library/44/254-emac-deployment-brochure/file> (last visited February 27, 2015).

¹² The REQ-A is the official form used by states to request, offer, and accept assistance through EMAC. It is also the basis for reimbursement.

10. Reimbursement package sent to requesting state.
11. Requesting state reimburses assisting state.¹³

Any assisting state that renders aid to a requesting state pursuant to EMAC must be reimbursed by the requesting state that receives such aid. Specifically, the requesting state is required to reimburse the assisting state for "any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the cost incurred in connection with such requests."¹⁴ However, an assisting state may assume in whole or in part the costs of the aid it provides and may donate or loan equipment or services as it wishes.¹⁵ In addition, any two or more member states are authorized to enter into supplementary agreements establishing a particular allocation of costs among such states.¹⁶

Items eligible for reimbursement by the requesting state are listed on the REQ-A form including the per diem rate for personnel deployed by the assisting state. Unless otherwise specified, per diem rates stated in a REQ-A represent the per diem rates of the location to which personnel are being deployed – that is, the rates of the requesting state. However, Florida does not allow travel reimbursement for EMAC missions to exceed the rates and limitations established in the Florida Statutes.

Per Diem and Travel Expenses

The Legislature has standardized travel reimbursement rates, procedures, and limitations, with certain exceptions and exemptions, applicable to all public officers, employees, and authorized persons whose travel is authorized and paid for by a public agency.¹⁷ All travel must be authorized by the head of the agency, or his or her designated representative, from whose funds the travel is paid. In addition, travel expenses should be limited to those necessarily incurred in pursuance of a public purpose.¹⁸ State law establishes the following three categories of travel:

- Class A – Continuous travel of 24 hours or more away from official headquarters¹⁹
- Class B – Continuous travel of less than 24 hours which involves overnight absence from official headquarters²⁰
- Class C – Travel for short or day trips where the traveler is not away from his or her official headquarters overnight²¹

Currently, Florida allows \$80 per diem for Class A and B travel.²² If expenses exceed \$80, the state will pay a maximum of \$36 (\$6 for breakfast, \$11 for lunch, and \$19 for dinner) in addition to the actual expenses for lodging at a single-occupancy rate supported by paid bills.²³ Class C

¹³ If the assisting state seeks FEMA reimbursement under a Presidential Major Disaster Declaration, this will not change or alter EMAC reimbursement requirements and procedures.

¹⁴ Section 252.929, F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 112.061(1), F.S.

¹⁸ Section 112.061(3), F.S.

¹⁹ Section 112.061(2)(k), F.S.

²⁰ Section 112.061(2)(l), F.S.

²¹ Section 112.061(2)(m), F.S.

²² Section 112.061(6), F.S.

²³ *Id.*

travel is not reimbursed on a per diem basis, but instead for each meal during which the travel occurred.²⁴ The General Service Administration (GSA) establishes reimbursement rates for travel, meals, and incidental expenses for those traveling under the authorization of the Federal government.²⁵ At a minimum, the GSA provides \$41 a day for meals and \$5 for incidental expenses for each day of travel in addition to the actual expenses for lodging.²⁶

III. Effect of Proposed Changes:

The bill creates s. 252.9335, F.S., to exempt an employee of the state or of a political subdivision of the state traveling at the request of another state through the Emergency Management Assistance Compact (EMAC) from per diem travel expense reimbursement provisions in s. 112.061(6), F.S. This will allow an EMAC traveler to be reimbursed for an amount that exceeds Florida's per diem expense limitations.

The bill also makes a technical change to s. 252.921, F.S., to identify the sections of Florida Statute that may be cited as the Emergency Management Assistance Compact.

This bill will take effect upon becoming law.

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.

²⁴ Section 112.061(5)(b), F.S.

²⁵ U.S. General Services Administration, *Frequently Asked Questions, Per Diem*, <http://www.gsa.gov/portal/content/104208> (last visited February 27, 2015).

²⁶ Standard rates for the contiguous United States and Washington, D.C. (CONUS) is determined by the GSA for each fiscal year effective on October 1. However, some areas that fall within the boundaries of CONUS are more expensive for travel than others. Reimbursement rates for states and territories that are not part of the contiguous United States (OCNUS) are defined by the Department of Defense.

B. Private Sector Impact:

The bill will allow personnel from Florida traveling under the Emergency Management Assistance Compact (EMAC) to be reimbursed for per diem expenses that exceed Florida's per diem rates. The per diem rates for travel under EMAC are decided in the request agreement and vary based on the location of the EMAC mission and the cost of living at that location.

C. Government Sector Impact:

The bill may require a Florida agency that is sponsoring personnel traveling under the Emergency Management Assistance Compact to reimburse the individual at a per diem rate that is higher than the amount prescribed in statute. However, this expense is later reimbursed by the state requesting assistance from Florida.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 252.921 of the Florida Statutes.

This bill creates section 252.9335 of the Florida Statutes.

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

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

CS by Governmental Oversight and Accountability on March 10, 2015:

The committee substitute clarifies that only the per diem travel expense provisions of s. 112,061(6) do not apply to an employee of the state or political subdivision seeking reimbursement under the Emergency Management Assistance Compact.

B. Amendments:

None.