

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1169 Emergency Management
SPONSOR(S): Powell
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1288

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	13 Y, 0 N	Hancock	Duncan
2) Appropriations Committee	24 Y, 0 N	Delaney	Leznoff
3) Economic Affairs Committee	11 Y, 0 N	Hancock	Pitts

SUMMARY ANALYSIS

The Division of Emergency Management (DEM), located within the Executive Office of the Governor, is responsible for administering programs to rapidly apply all available aid to communities stricken by an emergency and preparing a state comprehensive emergency management plan (CEMP). The CEMP is integrated into and coordinated with the federal government's emergency management plans. Both the state and federal government have established processes to prepare for, respond to, recover from, and mitigate natural, technological, or manmade disasters.

Although Florida's CEMP establishes three levels of activation for the SERT to effectively monitor and respond to threats or emergency situations, the term "activate" is not defined in statute. The bill clarifies the process utilized by DEM's State Emergency Response Team (SERT) to effectively mobilize resources and conduct activities to guide and support local emergency management efforts.

The bill clarifies the definition of the term "activate" as "the execution and implementation of the necessary plans and activities required to mitigate, respond to, or recover from a potential or actual state of emergency or disaster declared pursuant to this chapter and the state comprehensive emergency management plan which specifies levels of activation,"

The bill does not appear to have a significant fiscal impact on state or local governments.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation:

State Emergency Management Act

The State Emergency Management Act¹ created the Florida Division of Emergency Management (DEM), conferred emergency powers upon the Governor, and provided for the rendering of mutual aid among political subdivisions of the state, other states, and with the Federal Government.² It was enacted with a declaration of state policy “that all emergency management functions of the state be coordinated to the maximum extent with comparable functions of the Federal Government... to the end that the most effective preparation and use may be made of the workforce, resources, and facilities of the nation for dealing with any emergency that may occur.”³

Florida Division of Emergency Management’s Comprehensive Emergency Management Plan

DEM is tasked with administering programs to rapidly apply all available aid to communities stricken by an emergency.⁴ In order to do so, DEM is responsible for preparing a state comprehensive emergency management plan (CEMP), “which shall be integrated into and coordinated with the emergency management plans and programs of the Federal Government.”⁵ The CEMP serves as the framework for disaster and emergency preparedness, response, recovery and mitigation activities.⁶

Florida Emergency Process

When an imminent or actual event threatens the state, the Director of DEM activates the State Emergency Response Team (SERT) and recommends that the Governor declare a state of emergency.⁷ The SERT provides management of response and recovery activities from the State Emergency Operations Center (SEOC), a permanent facility located in Tallahassee.⁸ The SEOC operates 24 hours a day, 7 days a week, but the level of staffing varies with the activation level.

The CEMP establishes three levels of activation as follows:

- Level 3 – Monitoring Activation
This level is a "monitoring" phase. Notification is made to those state agencies and Emergency Support Functions (ESFs) needed to take action as part of everyday responsibilities. The State Emergency Operation Center is staffed with State Warning Point Communicators and DEM staff.
- Level 2 – Partial Activation of SERT
This level is limited activation with all primary or lead ESFs notified. The State Emergency Operations Center will be staffed by DEM personnel and necessary ESFs.
- Level 1 – Full Activation

¹ Sections 252.31-60, F.S.

² Section 252.32(1), F.S.

³ Section 252.32(2), F.S.

⁴ Section 14.2016, F.S.

⁵ Section 252.35(2)(a), F.S.

⁶ See Florida Division of Emergency Management (DEM), *State of Florida 2014 Comprehensive Emergency Management Plan (2014 CEMP)*, available at: <http://floridadisaster.org/cemp.htm> (last visited January, 11, 2016).

⁷ *Id.*, at 18. Alternatively, the SERT can be activated by the Governor, or the SERT Chief. See 2014 CEMP, Section IV H, Activation of Emergency Facilities.

⁸ *Id.*, at 12-17.

This level is full scale activation and all primary and support agencies under the state plan are notified. The State Emergency Operations Center is staffed by DEM personnel and all ESFs.⁹

In order to receive federal assistance, the Governor of the state requesting funding must demonstrate direct execution of the State's emergency plan.¹⁰ The Federal Coordinating Officer (FCO) works in unison with the State Coordinating Officer (SCO) to coordinate the federal response to a state affected by a disaster or emergency.¹¹

Federal Emergency Declaration Process

When state and local resources are inadequate to effectively respond to a disaster or emergency, a state governor may request federal assistance.¹² The Governor's written request for federal assistance is made through the regional Federal Emergency Management Agency (FEMA) office after a preliminary damage assessment (PDA) has been completed.¹³ The PDA assesses the costs associated with emergency protective measures, debris removal, and damage to infrastructure.¹⁴ . In the case of an emergency, Florida sends its PDA to Region IV, located in Atlanta, Georgia.¹⁵ However, if a severe or catastrophic event occurs, the Governor's request may be submitted prior to the PDA.

The Governor's request for federal assistance must demonstrate that appropriate action has occurred under state law and that the state's emergency plan has been initiated, among other things. After completion of the Governor's request, the President may activate federal programs to assist in the response and recovery effort. Not all federal programs are activated for every disaster.

These federal programs providing assistance are organized within the Emergency Support Functions (ESF) framework. The ESF provides the structure and coordination of federal interagency support in the event of an incident.¹⁶ The ESF is structured upon fifteen annexes. Within each annex, federal agencies that engage in work within that functional area are labeled as primary or support agencies. Primary agencies have significant roles, resources, or capabilities necessary for emergency support within the ESF annex. Support agencies assist primary agencies in responding to an incident or providing necessary resources.¹⁷

The needs of the state requesting assistance determine which federal programs are activated within the ESF framework.¹⁸ There are three activation levels and a "watch steady state" recognized by FEMA for the National Response Coordination Center. The federal levels of activation are described as follows:

- Watch Steady State
 - No event or incident anticipated.
- Level III
 - Requires moderate direct federal assistance.
 - Typically a recovery effort with minimal response requirements.
 - Federal assistance may be limited to activation of only one or two ESF primary agencies.
- Level II

⁹ DEM, *State Emergency Operations Center Activation Levels*, available at: <http://www.floridadisaster.org/eoc/eoclevel.htm> (last visited Dec. 1, 2015).

¹⁰ FEMA, *The Declaration Process*, available at: <https://www.fema.gov/declaration-process> (last visited Dec. 3, 2015).

¹¹ *Supra*, note 10 at 21-22.

¹² Public Law No: 100-707.

¹³ *Supra*, note 14.

¹⁴ DEM, *Public Assistance Program*, available at: <http://www.floridadisaster.org/Recovery/PublicAssistance/Index.htm> (last visited Dec. 3, 2015).

¹⁵ DEM, *Declaration Process – Request for Presidential Disaster Declaration*, available at: <http://www.floridadisaster.org/Recovery/IndividualAssistance/DeclarationProcess/Index.htm> (last visited Dec. 3, 2015).

¹⁶ FEMA, *EMERGENCY SUPPORT FUNCTION ANNEXES: INTRODUCTION*, available at: www.fema.gov/pdf/emergency/nrf/nrf-esf-intro.pdf

¹⁷ FEMA, *Primary and Support Agencies*, available at: <https://emilms.fema.gov/IS293/MAO0103070text.htm>

¹⁸ *Supra*, note 14.

- Requires a high amount of federal assistance.
- Significant involvement of FEMA, and other federal agencies.
- Possible deployment of initial response resources are required to support the needs of the affected state.
- Level II
 - An incident of such magnitude that has caused the response at the local, regional, or national-level to be completely overwhelmed or broken.
 - Requires an extreme amount of direct federal assistance for response and recovery efforts.
 - Major involvement of FEMA, other Federal agencies, and all primary ESF agencies are activated.¹⁹

Effect of Proposed Changes

This bill clarifies the term “activate” as it relates to the activation of the State Emergency Response Team (SERT) within the State Emergency Operations Center (SEOC) or at an alternate facility pursuant to the State Emergency Management Act. “Activate” is defined as “the execution and implementation of the necessary plans and activities required to mitigate, respond to, or recover from a potential or actual state of emergency or disaster declared pursuant to this chapter and the state comprehensive emergency management plan which specifies levels of activation.”

The federal declaration process requires the state to ‘execute’ the state emergency plan in response to a disaster. Florida guidelines do not require the entire SEOC to be activated in order to respond to a disaster, portions of the SERT can be activated to provide assistance under the Comprehensive Emergency Management Plan (CEMP). The definition is intended to clarify that activating portions of the SERT constitutes execution of the state emergency plan to aid in the federal reimbursement process.

B. SECTION DIRECTORY:

- Section 1: Amends s. 252.34, F.S., relating to definition under the State Emergency Management Act, defining the term “activate.”
- Section 2: Amends s. 163.360(10), F.S., relating to community redevelopment plans, conforming a statutory cross-reference.
- Section 3: Amends s. 474.2125(1), F.S., relating to the issuance of a temporary license to a licensed veterinarian, conforming a statutory cross-reference.
- Section 4: Amends s. 627.659(4), F.S., relating to blanket health insurance, conforming a statutory cross-reference.
- Section 5: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:

¹⁹ FEMA, *National Incident Support Manual*, available at: <https://www.fema.gov/media-library/assets/documents/24921> (last visited Dec. 9, 2015).

The Division of Emergency Management notes that they are not aware of any fiscal impact on the state due to the bill.²⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The Division of Emergency Management notes that they are not aware of any fiscal impact on local governments due to the bill.²¹

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. The bill does not require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²⁰ DEM bill analysis of HB 1169. On file with the Appropriation Committee.

²¹ *Id.*