

**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.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 464

INTRODUCER: Senator Clemens

SUBJECT: Natural Hazards

DATE: April 5, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	<b>Favorable</b>
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	<u>Peacock</u>	<u>Ferrin</u>	<u>GO</u>	<b>Favorable</b>
4.	<u>Sanders</u>	<u>Phelps</u>	<u>RC</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 464 creates an interagency workgroup to address the impacts of natural hazards in this state. Natural hazards are defined to include, but are not limited to, extreme heat, drought, wildfires, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

The natural hazards interagency workgroup is comprised of a liaison from each agency within the executive branch of state government, each water management district, and the Florida Public Service Commission. The director of the Florida Division of Emergency Management (FDEM), or his or her designee, will serve as both the agency liaison and the coordinator of the workgroup.

The bill requires the FDEM to prepare an annual progress report on the implementation of the state's enhanced hazard mitigation plan as it relates to natural hazards. The annual report is due to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2019, and each year thereafter. Each liaison is responsible for posting the workgroup's annual report to their respective agency's website.

The bill provides an effective date of July 1, 2017.

**II. Present Situation:**

**Natural Hazards in Florida**

A hazard is any event or condition with the potential to cause fatalities, injuries, property damage, infrastructure damage, agricultural loss, environmental damage, business interruption,

or other structural and financial loss.<sup>1</sup> Hazards are categorized as either natural, human-caused, or technological.<sup>2</sup> The Florida Division of Emergency Management identifies the following natural hazards that pose the greatest threat to Florida:

- Floods, to include potential for dam failure and sea level rise;
- Tropical cyclones;<sup>3</sup>
- Severe storms and tornadoes;
- Wildfires;
- Drought;
- Extreme heat;
- Winter storms and freezes;
- Erosion; and
- Sinkholes, landslides, and seismic events.<sup>4</sup>

Since 1980, the United States has sustained 203 weather and climate disasters where overall damages and costs reached or exceeded \$1 billion, costing U.S. taxpayers in excess of \$1.1 trillion.<sup>5</sup> Of those 203 events, 44 had some impact to Florida.<sup>6</sup> During that same period of time, Florida received 62 major disaster or emergency declarations for natural hazards and 57 Fire Management Assistance<sup>7</sup> declarations.<sup>8</sup>

### **FEMA Mitigation Grant Programs**

The Federal Emergency Management Agency (FEMA) was established in 1979 to centralize federal emergency and disaster activities.<sup>9</sup> FEMA's mission is to support citizens and first responders to build, sustain, and improve capabilities to prepare for, protect against, respond to, recover from, and mitigate all hazards.

The latter of FEMA's primary mission areas, hazard mitigation, is defined as any sustained action taken to reduce or eliminate the long-term risk to human life and property from hazards.<sup>10</sup>

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<sup>1</sup> FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Executive Summary*, page 2 (Aug. 2013), available at <http://www.floridadisaster.org/mitigation/State/Index.htm> (last visited February 24, 2017).

<sup>2</sup> FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Section 3.0: State Risk Assessment*, page 3.7 (Aug. 2013).

<sup>3</sup> Tropical cyclones are classified as a tropical depression, tropical storm, hurricane, or major hurricane. See National Hurricane Center, *Tropical Cyclone Climatology*, available at <http://www.nhc.noaa.gov/climo/> (last visited Feb. 24, 2017).

<sup>4</sup> FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Section 3.0: State Risk Assessment*, pages 3.12-3.14 (Aug. 2013).

<sup>5</sup> National Oceanic and Atmospheric Administration, *Billion-Dollar Weather and Climate Disasters*, available at <http://www.ncdc.noaa.gov/billions> (last visited Feb. 24, 2017).

<sup>6</sup> See National Oceanic and Atmospheric Administration, *Billion-Dollar Weather and Climate Disasters: Mapping*, available at <http://www.ncdc.noaa.gov/billions/mapping> (last visited Feb. 24, 2017).

<sup>7</sup> A FEMA Fire Management Assistance declaration makes funding through the Fire Management Assistance Grant Program available to states, local, and tribal governments for the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster. See FEMA, *Fire Management Assistance Grant Program*, available at <https://www.fema.gov/fire-management-assistance-grant-program> (last visited Feb. 24, 2017).

<sup>8</sup> FEMA, *Disaster Declarations*, available at [https://www.fema.gov/disasters?field\\_state\\_tid\\_selective=47&field\\_disaster\\_type\\_term\\_tid=All&field\\_disaster\\_declaration\\_type\\_value=All&items\\_per\\_page=20](https://www.fema.gov/disasters?field_state_tid_selective=47&field_disaster_type_term_tid=All&field_disaster_declaration_type_value=All&items_per_page=20) (last visited Feb. 24, 2017).

<sup>9</sup> FEMA, *About the Agency* (May 11, 2016), available at <https://www.fema.gov/about-agency> (last visited Feb. 24, 2017).

<sup>10</sup> 44 C.F.R. s. 201.2.

FEMA administers five mitigation grant programs designed to reduce community vulnerability to disasters and their effects, promote individual and community safety and resilience, and promote community vitality after an incident.<sup>11</sup> Mitigation programs are also intended to reduce response and recovery resource requirements in the wake of a disaster or incident, which results in a safer community that is less reliant on external financial assistance.<sup>12</sup>

Four of the FEMA mitigation grant programs are authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).<sup>13</sup> These programs include the Hazard Mitigation Grant Program, the Pre-Disaster Mitigation Grant Program, the Public Assistance Grant Program, and the Fire Management Assistance Grant Program.<sup>14</sup> The National Flood Insurance Act authorizes the fifth grant program called the Flood Mitigation Assistance grant, which was created with the goal of reducing or eliminating claims under the National Flood Insurance Program.<sup>15</sup> Funds received from any one of these grants can be used for hazard mitigation planning, mitigation activities,<sup>16</sup> or both.<sup>17</sup>

In order for state, tribal, and local governments to receive a FEMA mitigation grant, the applicant must produce a hazard mitigation plan approved by FEMA that conforms to a specified set of requirements.<sup>18</sup> At a minimum, a hazard mitigation plan must outline processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.<sup>19</sup> Jurisdictions must update their plans and re-submit them to FEMA every 5 years to maintain eligibility.<sup>20</sup>

### **Florida Division of Emergency Management**

The Florida Division of Emergency Management (FDEM) administers programs to rapidly apply all available aid to impacted communities stricken by emergency.<sup>21</sup> The FDEM is responsible for maintaining a 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, the FDEM coordinates efforts with and among the federal government, other state agencies, local governments, school boards, and private agencies that have a role in

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<sup>11</sup> FEMA, *Hazard Mitigation Assistance Guidance*, (Feb. 27, 2015), available at [https://www.fema.gov/media-library-data/1424983165449-38f5dfc69c0bd4ea8a161e8bb7b79553/HMA\\_Guidance\\_022715\\_508.pdf](https://www.fema.gov/media-library-data/1424983165449-38f5dfc69c0bd4ea8a161e8bb7b79553/HMA_Guidance_022715_508.pdf) (last visited Feb. 24, 2017).

<sup>12</sup> *Id.*

<sup>13</sup> 42 U.S.C. 5121 et seq.

<sup>14</sup> See FEMA, *Hazard Mitigation Planning Laws, Regulations, and Policies* (Sept. 12, 2016), available at <https://www.fema.gov/hazard-mitigation-planning-laws-regulations-policies> (last visited Feb. 24, 2017).

<sup>15</sup> *Id.*

<sup>16</sup> Examples of hazard mitigation activities include, but are not limited to, the elevation or relocation of chronically flood-damaged homes away from flood hazard areas, retrofitting buildings to make them resistant to earthquakes or strong winds, and adoption and enforcement of adequate building codes and standards set by local, state, and federal governments. See FEMA, *Mitigation Ideas* (Jan. 2013), available at [https://www.fema.gov/media-library-data/20130726-1904-25045-2423/fema\\_mitigation\\_ideas\\_final\\_01252013.pdf](https://www.fema.gov/media-library-data/20130726-1904-25045-2423/fema_mitigation_ideas_final_01252013.pdf) (last visited Feb. 24, 2017).

<sup>17</sup> FEMA, *Hazard Mitigation Plan Requirement*, (Dec. 23, 2016), available at <https://www.fema.gov/hazard-mitigation-plan-requirement> (last visited Feb. 24, 2017).

<sup>18</sup> See 44 C.F.R. ss.201.4-201.7.

<sup>19</sup> 42 U.S.C. 5165(b)(2).

<sup>20</sup> *Supra* note 17.

<sup>21</sup> Section 14.2016, F.S.

emergency management.<sup>22</sup> The FDEM also serves as the administrator of federal funds awarded to the state and local governments through FEMA's mitigation grant programs.

### ***State of Florida Enhanced Hazard Mitigation Plan***

As described above, FEMA requires all states to have a FEMA-approved hazard mitigation plan as a condition to receive some types of federal disaster assistance.<sup>23</sup> As specified in the Stafford Act, a state's hazard mitigation plan must:

- Identify the natural hazards, risks, and vulnerabilities of all areas in the state;
- Support development of local government mitigation plans;
- Provide for technical assistance to local and tribal governments for mitigation planning; and
- Identify and prioritize mitigation actions that the state will support, as resources become available.<sup>24</sup>

The current State of Florida Enhanced Hazard Mitigation Plan, effective August 2013, identifies potential hazards and vulnerabilities, sets goals, and establishes specific mitigation actions to reduce risk to people, buildings, infrastructure, and the environment.<sup>25</sup> Within the plan is a section dedicated to profiling Florida's natural, technological, and manmade hazards in extensive detail.<sup>26</sup> Of those natural hazards, the plan profiles flooding, to include flash floods, inland floods, and coastal floods; tropical cyclones, to include storm surge; severe storms and tornadoes; wildfires; drought; extreme heat; winter storms and freezes; erosion; sinkholes, earthquakes, and landslides; tsunamis; and solar storms.<sup>27</sup>

The FDEM is responsible for developing and coordinating efforts to maintain and update the state hazard mitigation plan. The FDEM accomplishes this with the collaboration and coordination of an advisory team known as the State Hazard Mitigation Plan Advisory Team (SHMPAT).<sup>28</sup> The SHMPAT participants include numerous state agencies, regional planning councils, water management districts, state universities, other government entities, and community stakeholders. The primary function of the SHMPAT is to assist the FDEM with the development, implementation, and maintenance of the state hazard mitigation plan, comment on draft versions, and to maximize the leveraging potential of all state mitigation related resources.<sup>29</sup>

The current State of Florida Enhanced Hazard Mitigation Plan took effect in August 2013. The FDEM and the SHMPAT are in the process of updating the current plan for FEMA to approve in 2018.

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<sup>22</sup> Section 252.35(1), F.S.

<sup>23</sup> Supra note 17.

<sup>24</sup> 42 U.S.C. s.5165(c).

<sup>25</sup> Supra note 1.

<sup>26</sup> FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Section 3.3: Profiling Florida's Hazards* (Aug. 2013).

<sup>27</sup> *Id.*

<sup>28</sup> FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Section 2.0: Planning Process* (Aug. 2013).

<sup>29</sup> *Id.*

### III. Effect of Proposed Changes:

**Section 1** of the bill creates s. 252.3655, F.S., to establish a natural hazards interagency workgroup. This workgroup is directed to share information on the current and potential impacts of natural hazards throughout the state, coordinate the ongoing efforts of state agencies in addressing the impacts of natural hazards, and collaborate on statewide initiatives to address the impacts of natural hazards.

The term “natural hazards” includes, but is not limited to, extreme heat, drought, wildfires, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

The workgroup is comprised of a liaison from each agency within the executive branch of state government, each water management district, and the Florida Public Service Commission. The director of the Florida Division of Emergency Management, or his or her designee, will serve as both the agency liaison and the coordinator of the workgroup.

Each agency liaison must provide information on the current and potential impacts of natural hazards to his or her agency, agency resources available to mitigate against natural hazards, and efforts made by the agency to address the impacts of natural hazards.

The workgroup must meet in person or by teleconference on a quarterly basis to share information, leverage agency resources, coordinate ongoing efforts, and provide information for inclusion in annual progress report.

The FDEM is responsible for preparing an annual progress report on behalf of the workgroup on the implementation of the state’s enhanced hazard mitigation plan, developed and submitted in accordance with 42 U.S.C. s. 5165 and any implementing regulations, as it relates to natural hazards. The annual report is due to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2019, and each year thereafter. Each liaison is responsible for posting the workgroup’s annual report to their respective agency’s website. The report shall, at a minimum:

- Assess the relevance, level, and significance of current agency efforts to address the impacts of natural hazards; and
- Strategize and prioritize ongoing efforts to address the impacts of natural hazards.

**Section 2** of the bill provides an effective date of July 1, 2017.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties or municipalities to spend funds, reduce the counties’ or municipalities’ ability to raise revenue or reduce the percentage of state tax shared with counties or municipalities.

**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 bill directs the FDEM to serve as the coordinator of the natural hazards interagency workgroup and prepare an annual report on behalf of the workgroup. According to the FDEM, the resources and manpower needed to develop the workgroup and organize quarterly teleconferences exceed the FDEM's current resources.<sup>30</sup> The FDEM estimates it would need at least one additional full-time employee to manage the added responsibilities provided in the bill.<sup>31</sup>

Additionally, the bill may increase the workload for existing agency personnel designated as an agency's liaison to the natural hazards interagency workgroup.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to the FDEM, implementation of a natural hazards interagency workgroup may duplicate many of the functions currently undertaken by the State Hazard Mitigation Plan Advisory Team.<sup>32</sup> The FDEM also states that in addition to the federally mandated 5-year update, the FDEM maintains and updates the State Hazard Mitigation Plan as needed.<sup>33</sup>

**VIII. Statutes Affected:**

This bill creates section 252.3655 of the Florida Statutes.

<sup>30</sup> FDEM, *Senate Bill 464 Agency Analysis* (Jan. 26, 2017) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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