

**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 1272

INTRODUCER: Senators Montford and Albritton

SUBJECT: Statewide Emergency Shelter Task Force

DATE: February 24, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
3.	<u>Proctor</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

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## I. Summary:

SB 1272 creates a 7-member task force within the Department of Management Services. The Statewide Emergency Shelter Task Force (Task Force) is tasked with making recommendations to the Governor and the Legislature regarding the establishment and operation of state-designated emergency shelters. The recommendations must include, but are not limited to, a review of the local, state, and federal activities organized, planned, and executed at emergency shelters during the past 10 years with a focus on a review of all resources (including financial) and a quantification of expenditures.

The Task Force must provide recommendations regarding the establishment and operation of state-designated emergency shelters to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 15, 2020.

The bill provides for the termination of the Task Force on May 15, 2021.

The Department of Management Services will experience an indeterminate negative fiscal impact as the agency responsible for the reimbursement of travel expenses and other administrative matters.

The bill takes effect July 1, 2020.

## II. Present Situation:

### Task Force Requirements under Section 20.03, Florida Statutes

Section 20.03(8), F.S., defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution

or policy alternative related to that problem.” This provision specifies that the existence of the task force terminates upon the completion of its assignment. Further, members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation and are authorized to receive only per diem and reimbursement for travel expenses.<sup>1</sup>

### **Public Shelters**

The Florida Legislature has declared its intent that the State not have a deficit of safe public hurricane evacuation shelter space in any region of the State.<sup>2</sup> The Division of Emergency Management (division), established in the Executive Office of the Governor, serves as the state’s emergency management agency<sup>3</sup> and is directed by the State Emergency Management Act<sup>4</sup> to oversee and manage emergency preparedness, response, recovery, and mitigation programs in Florida.

The division must administer a program for surveying existing public and private buildings, with the owner’s written agreement, to identify which facilities are appropriately designed and located to serve as shelters in the event of an emergency. The state university boards of trustees, district school boards, community college boards of trustees, and the Department of Education are responsible for coordinating and implementing the survey of public schools, universities, and community colleges with the division or the local emergency management agency.<sup>5</sup>

Annually, the Division must provide to the President of the Senate, the Speaker of the House of Representatives, and the Governor a list of facilities recommended to be retrofitted using state funds.<sup>6</sup> State Funds are to be maximized and targeted to regional planning council regions with hurricane evacuation shelter deficits.<sup>7</sup> The owner or lessee of a public hurricane evacuation shelter that is included on the list of facilities recommended for retrofitting is not required to perform any recommended improvements<sup>8</sup>

Additionally, by January 31 of each even-numbered year, the division must prepare and submit a statewide emergency shelter plan<sup>9</sup> (the Plan) to the Governor and Cabinet for approval.<sup>10</sup> The plan must identify the general location and square footage of special needs shelters, by regional planning council region, during the next five years.<sup>11</sup> The plan must also include information on the availability of shelters that accept pets.<sup>12</sup> The Department of Health is required to assist the division in determining the estimated need for special needs shelter space and the adequacy of

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<sup>1</sup> Section 20.052(2)(d), F.S.

<sup>2</sup> Section 252.385(1), F.S.

<sup>3</sup> Section 14.2016, F.S.

<sup>4</sup> Section 252.31, F.S., through s. 252.60, F.S., are known as the State Emergency Management Act. Section 252.31, F.S.

<sup>5</sup> Section 252.385(2)(a), F.S.

<sup>6</sup> Section 252.385(3), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> 2018 Statewide Emergency Shelter Plan, DIVISION OF EMERGENCY MANAGEMENT, available at <https://www.floridadisaster.org/globalassets/dem/response/sesp/2018/2018-sesp-entire-document.pdf> (last visited January 29, 2020).

<sup>10</sup> Section 252.385(2)(b), F.S.

<sup>11</sup> *Id.*

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

facilities to meet the needs of persons with special needs based on information from the registries of persons with special needs and other information.<sup>13</sup>

Public facilities, including schools, post-secondary education facilities, and other facilities owned or leased by the state or local governments, but excluding hospitals or nursing homes, which are suitable for use as public hurricane evacuation shelters must be made available at the request of the local emergency management agencies, who also must coordinate with these entities to ensure that designated facilities are ready to activate prior to a specific hurricane or disaster. Local emergency management agencies must also coordinate with the appropriate school board, university, community college, state agency, or local governing board when requesting the use of such public facilities as public hurricane evacuation shelters.<sup>14</sup>

The Department of Management Services (DMS) is required to incorporate provisions for the use of suitable leased public facilities as public hurricane evacuation shelters into lease agreements for state agencies. Suitable leased public facilities include leased public facilities that are solely occupied by state agencies and have at least 2,000 square feet of net floor area in a single room or in a combination of rooms having a minimum of 400 square feet in each room. The net square footage of floor area must be determined by subtracting from the gross square footage the square footage of spaces such as mechanical and electrical rooms, storage rooms, open corridors, restrooms, kitchens, science or computer laboratories, shop or mechanical areas, administrative offices, records vaults, and crawl spaces.<sup>15</sup>

The DMS must, in consultation with local and state emergency management agencies, assess DMS facilities to identify the extent to which each facility has public hurricane evacuation shelter space. The DMS must submit proposed facility retrofit projects that incorporate hurricane protection enhancements to the division for assessment.<sup>16</sup>

The DMS is required to include in the annual state facilities inventory report required under ss. 216.015-216.016, F.S., a separate list of state-owned facilities, including, but not limited to, meeting halls, auditoriums, conference centers, and training centers that have unoccupied space suitable for use as an emergency shelter during a storm or other catastrophic event. Facilities must be listed by the county and municipality where the facility is located and the list must be updated by May 31 of each year.<sup>17</sup>

The division is required to prepare a state comprehensive emergency management plan (CEMP) that must be integrated into, and coordinated with, the emergency management plans of the Federal Government.<sup>18</sup> The CEMP<sup>19</sup> must be submitted to the President of the Senate, the

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<sup>13</sup> *Id.*

<sup>14</sup> Section 252.385(4)(a), F.S.

<sup>15</sup> Section 252.385(4)(b), F.S.

<sup>16</sup> Section 252.385(4)(c), F.S.

<sup>17</sup> Section 252.385(4)(d), F.S.

<sup>18</sup> Section 252.35(2)(a), F.S.; *see also* s. 1013.372, F.S.

<sup>19</sup> Rule 27P-2.002, F.A.C., incorporates the CEMP by reference; *See* Comprehensive Emergency Management Plan, Division of Emergency Management, available at <https://www.floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf> (last visited January 29, 2020).

Speaker of the House of Representatives, and the Governor on February 1 of every even-numbered year.<sup>20</sup> The CEMP must be operations oriented and:

- Include an evacuation component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of activities.
- Include a shelter component that includes specific regional and interregional planning provisions and promotes coordination of shelter activities between the public, private, and nonprofit sectors.<sup>21</sup>
- Include a postdisaster response and recovery component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of postdisaster response and recovery activities.
- Include provisions addressing aspects of preparedness, response, recovery, and mitigation as determined necessary by the division.
- Address the need for coordinated and expeditious deployment of state resources, including the Florida National Guard.
- Establish a system of communications and warnings.
- Establish guidelines and schedules for annual exercises that evaluate the ability of the state and its political subdivisions to respond to minor, major, and catastrophic disasters and support local emergency management agencies.
- Assign lead and support responsibilities to state agencies and personnel for emergency support functions and other support activities.

### **Federal Public Assistance for Emergency Shelters**

The Federal Emergency Management Agency (FEMA) provides Public Assistance (PA) funding to State, Territorial, Tribal, and local government Applicants for costs related to emergency sheltering for survivors. Typically, such sheltering occurs in facilities with large open spaces, such as schools, churches, community centers, armories, or other similar facilities. FEMA refers to these shelters as congregate shelters.<sup>22</sup>

Generally, FEMA does not provide PA funding for emergency sheltering in non-congregate environments, which are locations where each individual or household has living space that offers some level of privacy (e.g., hotels, motels, casinos, dormitories, retreat camps, etc.).<sup>23</sup> In limited circumstances, such as when congregate shelters are not available or sufficient, FEMA may reimburse costs related to emergency sheltering provided in non-congregate environments. FEMA's Assistant Administrator for Recovery has the authority to approve this policy exception. The applicant must submit a request for PA funding for costs related to emergency,

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<sup>20</sup> Section 252.35(2)(a), F.S.

<sup>21</sup> This component must, at a minimum: contain strategies to ensure the availability of adequate public shelter space in each region of the state; establish strategies for refuge-of-last-resort programs; provide strategies to assist local emergency management efforts to ensure that adequate staffing plans exist for all shelters, including medical and security personnel; provide for a postdisaster communications system for public shelters; establish model shelter guidelines for operations, registration, inventory, power generation capability, information management, and staffing; and set forth policy guidance for sheltering people with special needs. Section 252.35(2)(a)2., F.S.

<sup>22</sup> Federal Emergency Management Agency, *Public Assistance Program and Policy Guide*(FP 104-009-2 / April 2018), available at [https://www.fema.gov/media-library-data/1525468328389-4a038bbef9081cd7dfe7538e7751aa9c/PAPPG\\_3.1\\_508\\_FINAL\\_5-4-2018.pdf](https://www.fema.gov/media-library-data/1525468328389-4a038bbef9081cd7dfe7538e7751aa9c/PAPPG_3.1_508_FINAL_5-4-2018.pdf) (last visited February 12, 2020).

<sup>23</sup> *Id.* at 66.

non-congregate sheltering and obtain FEMA approval prior to sheltering survivors in non-congregate facilities.<sup>24</sup>

FEMA provides for the reimbursement of costs (all or part, depending on the length of time after the event and the FEMA Disaster Declaration<sup>25</sup>) associated with the operation of a shelter facility and the cleaning and restoration of a shelter facility to pre-congregate shelter conditions.<sup>26</sup>

Eligible costs related to sheltering include, but are not limited to, the following<sup>27</sup>:

- Facility lease or rent, including space for food preparation;
- Utilities such as power, water, and telephone;
- Minor facility modifications if necessary to make the facility habitable, compliant with the Americans with Disabilities Act, functional as a child care facility, or functional as an animal shelter;
- Restoration to return the facility to its condition prior to use;
- Generator costs; and
- Secure storage space for medical supplies.<sup>28</sup>

### III. Effect of Proposed Changes:

The bill creates the Statewide Emergency Shelter Task Force to make recommendations to the Governor and the Legislature regarding the establishment and operation of state-designated emergency shelters. The recommendations must include, but are not limited to, a review of the local, state, and federal activities organized, planned, and executed at emergency shelters during the past ten years, with a specific focus on the following:

- A review of all resources, including financial resources, provided in the designation and operation of emergency shelters, and whether the process used to designate and operate emergency shelters was effective in the preparation, operation, and cleanup of such shelters; and
- A quantification of any expenditures for the operation and cleanup of emergency shelters, including repair expenditures for any damage caused by the emergency shelter's occupation which have been less than the actual costs of completing such tasks; the governmental entity that was responsible for paying such uncovered costs; and whether the deficit was due to a lack of resources or a local, state, or federal policy.

The Task Force is established adjunct to the DMS.

The Task Force is composed of:

- One member representing state facilities, who shall serve as chair, appointed by the secretary of the Department of Management Services.
- One public school superintendent, appointed by the Commissioner of Education.

<sup>24</sup> *Id.*

<sup>25</sup> 44 C.F.R. Part §206, Subpart B., available at <https://www.ecfr.gov/cgi-bin/text-idx?SID=5a67508b6441bcdafc43c537b610741c&mc=true&node=sp44.1.206.b&rgn=div6> (last visited January 30, 2020).

<sup>26</sup> Federal Emergency Management Agency, *FEMA Disaster Assistance Policy*, Disaster Assistance Policy DAP9523.15 at Page 4 of 5, available at <https://www.fema.gov/pdf/government/grant/pa/policy.pdf> (last visited January 30, 2020).

<sup>27</sup> Sheltering and caring for household pets is only eligible while the pet owner is in an emergency shelter. *See Supra* note 22 at 67.

<sup>28</sup> *Id.*

- One member representing Florida College System institutions and state universities, appointed by the Chancellor of the State University System.
- One member representing charter schools, appointed by the Commissioner of Education.
- One member representing independent postsecondary institutions, appointed by the Commissioner of Education.
- One member representing emergency response agencies, appointed by the director of the Division of Emergency Management.
- One member representing facilities constructed with the assistance of state funds, appointed by the Governor.

Members serve at the pleasure of their appointing authority. Any vacancy must be filled in the same manner as the original appointment. A member of the Legislature or a registered legislative or executive branch lobbyist may not be appointed to the Task Force. In accordance with s. 20.052(4)(d), F.S., members shall serve without compensation but are entitled to reimbursement of travel and per diem expenses as provided in s. 112.061, F.S., in the performance of their duties and responsibilities under this section.

The Task Force must report its recommendations regarding the establishment and operation of state-designated emergency shelters to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 15, 2020.

The Task Force expires on May 15, 2021.

The bill provides an effective date of July 1, 2020.

#### **IV. Constitutional Issues:**

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

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

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The DMS may incur a minor amount of travel and other administrative expenses as the Task Force is housed within the DMS.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section 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.)

None.

## B. Amendments:

None.