

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 Infrastructure and Security

BILL: SB 538

INTRODUCER: Senators Diaz and Book

SUBJECT: Emergency Reporting

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 538 creates mandatory reporting of certain incidents by counties and municipalities to the State Watch Office (SWO) within the Division of Emergency Management (DEM). Such incidents include:

- Major fire incidents and search and rescue operations;
- Law enforcement incidents;
- Natural hazards;
- Population protective actions;
- Technical hazards or environmental concerns;
- Transportation incidents;
- Incidents involving utilities or infrastructure; and
- Military events.

The DEM may establish guidelines specifying additional information that a county or municipality must provide to the SWO when reporting an incident.

The bill may have a local mandate and require the approval of two-thirds of the membership in each house of the Legislature. See Section IV.

The fiscal impact of this bill on counties and municipalities is indeterminate.

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

II. Present Situation:

The SWO is located in the State Emergency Operations Center in Tallahassee, FL, and is manned by the DEM's Operations Officers. The SWO is Florida's official State Warning Point with the Federal Emergency Management Agency, and maintains communication systems and

warning capabilities to ensure that the state’s population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.^{1, 2}

The SWO is manned 24 hours a day, 7 days a week, and its primary purpose is to record, analyze and share information with local, county, state and federal partners to aid in their appropriate response. The SWO is not a dispatch center but a clearinghouse of information to be shared with other government entities who can independently act within their own agency authority and protocols.³ DEM’s mission is to provide members of the State Emergency Response Team with the most accurate information available relating to ongoing or impending hazardous situations throughout the State and region.⁴

The SWO also maintains a direct relationship with the Florida Fusion Center⁵, which allows both Emergency Management and Law Enforcement officials to have the most complete and up-to-date intelligence available to better serve citizens, businesses, and visitors.⁶

The SWO takes between 8,000 and 9,000 incidents a year.⁷ They include simple fuel spills, radiological emergencies, damages from severe weather, and rocket launches from Cape Canaveral. A list of potential hazards that are called in and monitored by the SWO are:⁸

<u>Natural Hazards</u>	<u>Technological Hazards</u>
Hurricanes	Terrorism
Tornadoes	Mass Migration
Flooding	Radiological
Wildfire	Hazardous Materials

¹ Section 252.35, F.S.

² Florida Division of Emergency Management, *State Watch Office Guide for Florida County Warning Points and PSAPs* (Published June 2015),

³ Florida Division of Emergency Management, *State Watch Office Incident Reporting Guidelines* (August 2011), available at <https://www.floridadisaster.org/globalassets/importedpdfs/swo-reporting-guidelines-2011.pdf> (last visited January 16, 2020).

⁴ *Supra*, note 2.

⁵ The Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (Dec. 17, 2004), provided guidance on the need for each state to designate a single fusion center to serve as a hub for information sharing, access and collaboration at all levels. The Florida Fusion Center is housed within the Florida Department of Law Enforcement with a mission to protect citizens, visitors, resources, and critical infrastructure of Florida by gathering, processing, analyzing, and disseminating of terrorism, law enforcement, and homeland security information for all local, state, and federal agencies in accordance with Florida’s Domestic Security Strategy.

⁶ *Supra*, note 2.

⁷ Florida Division of Emergency Management, *Program Spotlight: The Florida State Watch Office*, available at <https://floridagetaplan.wordpress.com/2015/07/17/program-spotlight-the-florida-state-watch-office/> (last visited January 16, 2020).

⁸ *Id.*

Severe Thunderstorms	Special Events (2012 Republican National Convention, Super Bowl)
Severe Hot and Cold	Transportation Accidents (Rail, Aircraft, Motor Vehicle, Marine)
Earthquakes	Law Enforcement Incidents

The information for these incidents is generally given to the SWO from a county Public Safety Answering Point⁹, and sometimes from the general public. The collected information is logged into an incident tracking system and then disseminated to local, state, tribal, federal, and private partners to aid in their response actions.¹⁰

Counties and municipalities currently have no statutory direction on informing the State about localized emergency events or incidents in their jurisdiction(s). However, local governments currently share information regularly with the SWO regarding natural and technological hazards, so that the SWO is consistently provided with incident reports from across the state.¹¹ Only wastewater and chemical spills, are required by law to be reported to the SWO.¹²

III. Effect of Proposed Changes:

The bill creates s. 252.351, F.S., for mandatory reporting of certain incidents by counties and municipalities. The bill provides that:

- As soon as practicable following its initial response to an incident, a county or a municipality must provide notification to the SWO within the DEM of any of the following incidents that occur within the county or municipality:
 - Major fire incidents and search and rescue operations, including wildfires, multiunit commercial or residential fires, industrial accidents, structure collapses, urban search and rescue responses, and transportation incidents requiring a search and rescue response.
 - Law enforcement incidents and other suspicious activity, including bomb threats, the report of a threat to inflict harm on large numbers of people or significant damage to critical infrastructure, a device detonation, the discovery of any suspicious device, civil events or disturbances, rioting, any law enforcement search or manhunt for a violent felony suspect, active shooter or active shooting situations, looting, poisoning, any incidents involving a suspicious powder, correctional facility incidents, a cyber-related infrastructure breach, a lockdown, and a security breach.
 - Natural hazards, including earthquakes, ground subsidence or sinkholes, severe weather reports, and severe weather damage.

⁹ DATA.GOV, *Public Safety Answering Point (PSAP) 911 Service Area Boundaries*, available at <https://catalog.data.gov/dataset/public-safety-answering-point-psap-911-service-area-boundaries> (last visited January 17, 2020), defines a Public Safety Answering Point as a facility equipped and staffed to receive 9-1-1 calls.

¹⁰ *Supra*, note 7.

¹¹ Division of Emergency Management, *FDEM Legislative Priorities 2019-2020 (Fla. Stat. § 252)*, on file with the Senate Committee on Infrastructure and Security.

¹² Section 403.077(2), F.S., see also Chapter 62-620, F.A.C.

- Population protective actions, including any public health hazards, the establishment of shelter-in-place orders or evacuation orders, emergency shelter openings, hazards involving animals or agriculture, and food supply contamination or recalls.
- Technical hazards or environmental concerns, including petroleum spills; wastewater releases; hazardous material spills and releases; chemical, biological, radiological, and nuclear incidents; nuclear power plant events; and environmental crimes.
- Transportation incidents, including incidents involving aircraft or airports, railroad accidents or derailments, major road or bridge closings, and incidents involving marine vessels that block a navigable channel of a major waterway.
- Incidents involving utilities or infrastructure, including dam failure or overtopping, a drinking water facility breach, a water quality issue or boil water advisory, and utility disruptions or major outages involving transmission lines or substations.
- Military events, when information regarding such activity is provided to local officials.
- The DEM may establish guidelines specifying additional information that a county or municipality must provide to the SWO when reporting an incident.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection (a) of section 18 of the Florida Constitution provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Under this bill, cities and counties may incur costs relating to reporting of certain incidents. However, the mandate requirements do not apply to laws having an insignificant impact, which, for Fiscal Year 2020-2021, is forecast at slightly over \$2.1 million.^{13,14,15} The impact of this bill on cities and counties is indeterminate.

If such costs were determined to exceed \$2.1 million in the aggregate, the bill may be binding on cities and counties if the bill contains a finding of important state interest and meets one of the exceptions specified in State Constitution (e.g., provision of funding or a funding mechanism or enactment by vote of two-thirds of the membership of each house).

However, this provision does not apply if the law has an insignificant fiscal impact.¹⁶

¹³ FLA. CONST. art. VII, s. 18(d).

¹⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited January 17, 2020).

¹⁵ Based on the Florida Demographic Estimating Conference's December 3, 2019, population forecast for 2020 of 21,555,986. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited January 17, 2020).

¹⁶ Article VII, s. 18(d) of the Florida Constitution

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be an insignificant negative fiscal impact to local governments for implementation of the bill. With the exception of wastewater and chemical spills¹⁷, counties and municipalities have no statutory direction on informing the State about localized emergency events or incidents in their jurisdiction(s). However, local governments currently share information regularly with the SWO regarding natural and technological hazards, so that the SWO is consistently provided with incident reports from across the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 252.351

¹⁷ *Supra*, note 12.

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.

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