

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 Community Affairs

BILL: CS/CS/SB 752

INTRODUCER: Community Affairs Committee; Infrastructure and Security Committee; and Senator Bean and others

SUBJECT: Emergency Sheltering of Persons with Pets

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	<u>Fav/CS</u>
2.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 752 requires:

- The Department of Education (DOE) and the Department of Agriculture and Consumer Services (DACS) to assist the Division of Emergency Management (DEM) in determining strategies for the emergency sheltering of persons with pets;
- A county which maintains any designated shelters to also designate a shelter that can accommodate persons with pets; and
- Shelters to comply with applicable disaster assistance policies and procedures of the Federal Emergency Management Agency (FEMA) and with safety procedures regarding the sheltering of pets established in the shelter component of both local and state comprehensive emergency management plans.

II. Present Situation:

On October 6, 2006, the federal Pets Evacuation and Transportation Standards (PETS) Act was signed into law, amending Sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).¹ The PETS Act requires state and local emergency preparedness authorities to plan for how they will accommodate the needs of individuals with

¹ 42 U.S.C 5170b, 42 U.S.C. 5192; the Pets Evacuation and Transportation Standards Act (PETS Act) of 2006, P.L. No. 109-308, § 4, 120 Stat. 1725 (2006); and 44 CFR §§ 206.223(a), 206.225(a).

household pets and service animals prior to, during, and following a major disaster or emergency when presenting their plans to FEMA. Section 403, as amended by the PETS Act, authorizes FEMA to provide rescue, care, shelter, and essential needs for individuals with household pets and service animals and to the household pets and animals themselves following a major disaster or emergency.

FEMA Disaster Assistance Policy (DAP) 9523.19 provides:

- “Household pet” means a domesticated animal, such as a dog, cat, bird, rabbit, rodent, or turtle that is traditionally kept in the home for pleasure rather than for commercial purposes, can travel in commercial carriers, and be housed in temporary facilities. Household pets do not include reptiles (except turtles), amphibians, fish, insects and arachnids, farm animals (including horses), and animals kept for racing purposes; and
- “Service animal” means any guide dog, signal dog, or other animal individually trained to assist an individual with a disability including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.^{2,3}

Also, FEMA DAP 9523.19 identifies the expenses related to state and local governments’ emergency pet evacuation and sheltering activities that may be eligible for reimbursement to include:

- Household pet rescue (may include overtime for regular full-time employees, regular and overtime for contract labor, and use of owned or leased equipment); and
- Congregated household pet sheltering (may include facilities, supplies and commodities, labor, equipment, emergency veterinary services, transportation, shelter safety and security, cleaning and restoration, removal and disposal of animal carcasses, and cataloging and tracking system for pets).⁴

For state and local governments to qualify for federal disaster funding from FEMA’s Public Assistance Grant Program, they must comply with the PETS Act requirements in their disaster preparedness plans.

The DEM, with the assistance of the DACS, is required to address strategies for the evacuation of persons with pets in the shelter component of the state comprehensive emergency management plan and must include the requirement for similar strategies in its standards and requirements for local comprehensive emergency management plans.⁵

During the 2018 Regular Session, the need for a minimum number of pet shelters per-county was discussed by the House Select Committee on Hurricane Response and Preparedness, and their final report contained the following policy recommendation:

² Department of Justice, Americans with Disabilities Act (ADA), 42 USC 1201 et seq, implementing regulations at 28 CFR § 36.104.

³ Federal Emergency Management Agency, *FEMA Disaster Assistance Policy*, available at <https://www.fema.gov/pdf/government/grant/pa/policy.pdf> (last visited January 23, 2020).

⁴ *Id.*

⁵ Section 252.3568, F.S.

- Determine the adequacy of communications about and the availability of pet shelters, and consider means to improve communication and the merits of requiring a standard population-based minimum number of pet shelters or ratio of pet and non-pet shelters.⁶

The 2014 State of Florida Comprehensive Emergency Management Basic Plan addresses the sheltering of pets or service animals and states:

“A person with who uses a service animal must be allowed to bring his or her service animal into a general population or special needs shelter and has the right to be accompanied by a service animal in all areas of a public accommodation (See sections 252.355(3) and 413.08, F. S.). In developing these strategies, the state considers the following:

- Locating pet-friendly shelters within buildings with restrooms, running water, and proper lighting.
- Allowing pet owners to interact with their animals and care for them.
- Ensuring animals are properly cared for during the emergency.”⁷

III. Effect of Proposed Changes:

The bill amends s. 252.3568, F.S., to require:

- The DOE and the DACS to assist the DEM in determining strategies for the emergency sheltering of persons with pets;
- A county which maintains any designated shelters to also designate a shelter that can accommodate persons with pets; and
- Shelters that can accommodate persons with pets to comply with the applicable disaster assistance policies and procedures of FEMA and with safety procedures regarding the sheltering of pets established in the shelter component of both local and state comprehensive emergency management plans.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection (a) of section 18 of the State 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.

⁶ Florida House of Representatives, Select Committee on Hurricane Response & Preparedness Final Report (January 16, 2018), on page 63, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=General%20Publications&FileName=SCHRP%20-%20Final%20Report%20online.pdf> (last visited January 23, 2020).

⁷ The Division of Emergency Management, *2014 State of Florida Comprehensive Emergency Management Basic Plan*, available at <https://www.floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf> (last visited January 23, 2020).

Under the bill, counties may incur costs associated with designating and maintaining a shelter that can accommodate persons with pets. 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.^{8,9,10} The fiscal impact of the bill on counties is indeterminate at this time.

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

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.

⁸ Fla. Const. art. VII, s. 18(d).

⁹ 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 Jan. 30, 2020).

¹⁰ 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 Jan. 30, 2020).

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on counties in designating a shelter that can accommodate persons with pets that complies with FEMA policies and procedures and applicable safety procedures within local and state comprehensive emergency management plans. However, such expenses to maintain a pet shelter may be partially or fully reimbursable by FEMA. The number of counties with shelters that accommodate pets and which meet the bill's requirements is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 252.3568 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Community Affairs on February 10, 2020:**

The committee substitute removes language that required the county to “operate at least one” shelter that can accommodate persons with pets. Alternatively, the substitute requires counties to “designate a shelter that can accommodate persons with pets.” The committee substitute also makes a technical change to abbreviate the “Federal Emergency Management Agency” as “FEMA.”

CS by Infrastructure and Security on January 27, 2020:

- Requires the DOE and the DACS to assist the DEM in determining strategies for the emergency sheltering of persons with pets;
- Requires a county which maintains any designated shelters, to also designate and operate at least one shelter that can accommodate persons with pets; and
- Requires shelters to be in compliance with any applicable disaster assistance policies and procedures of the FEMA and with safety procedures regarding the sheltering of pets established in the shelter component of the local and state comprehensive emergency management plans.

B. Amendments:

None.