



870038

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2021	.	
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The Committee on Community Affairs (Diaz) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 252.38, Florida Statutes, is amended to  
read:

252.38 Emergency management powers of political  
subdivisions.—Safeguarding the life and property of its citizens  
is an innate responsibility of the governing body of each  
political subdivision of the state. However, political



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11 subdivisions are given police powers to preserve, not impair,  
12 private rights. Therefore, a political subdivision that deprives  
13 any person of a constitutional right, fundamental liberty,  
14 statutory right, or property to address a purported emergency  
15 bears the burden of proving that the exercise of police power is  
16 narrowly tailored, serves a compelling governmental interest,  
17 and accomplishes the intended goal through the use of the least  
18 intrusive means.

19 (1) COUNTIES.—

20 (a) In order to provide effective and orderly governmental  
21 control and coordination of emergency operations in emergencies  
22 within the scope of ss. 252.31-252.90, each county within this  
23 state shall be within the jurisdiction of, and served by, the  
24 division. Except as otherwise provided in ss. 252.31-252.90,  
25 each local emergency management agency shall have jurisdiction  
26 over and serve an entire county. Unless part of an  
27 interjurisdictional emergency management agreement entered into  
28 pursuant to paragraph (3) (b) which is recognized by the Governor  
29 by executive order or rule, each county must establish and  
30 maintain such an emergency management agency and shall develop a  
31 county emergency management plan and program that is coordinated  
32 and consistent with the state comprehensive emergency management  
33 plan and program. Counties that are part of an  
34 interjurisdictional emergency management agreement entered into  
35 pursuant to paragraph (3) (b) which is recognized by the Governor  
36 by executive order or rule shall cooperatively develop an  
37 emergency management plan and program that is coordinated and  
38 consistent with the state comprehensive emergency management  
39 plan and program.



40 (b) Each county emergency management agency created and  
41 established pursuant to ss. 252.31-252.90 shall have a director.  
42 The director must meet the minimum training and education  
43 qualifications established in a job description approved by the  
44 county. The director shall be appointed by the board of county  
45 commissioners or the chief administrative officer of the county,  
46 as described in chapter 125 or the county charter, if  
47 applicable, to serve at the pleasure of the appointing  
48 authority, in conformance with applicable resolutions,  
49 ordinances, and laws. A county constitutional officer, or an  
50 employee of a county constitutional officer, may be appointed as  
51 director following prior notification to the division. Each  
52 board of county commissioners shall promptly inform the division  
53 of the appointment of the director and other personnel. Each  
54 director has direct responsibility for the organization,  
55 administration, and operation of the county emergency management  
56 agency. The director shall coordinate emergency management  
57 activities, services, and programs within the county and shall  
58 serve as liaison to the division and other local emergency  
59 management agencies and organizations.

60 (c) Each county emergency management agency shall perform  
61 emergency management functions within the territorial limits of  
62 the county within which it is organized and, in addition, shall  
63 conduct such activities outside its territorial limits as are  
64 required pursuant to ss. 252.31-252.90 and in accordance with  
65 state and county emergency management plans and mutual aid  
66 agreements. Counties shall serve as liaison for and coordinator  
67 of municipalities' requests for state and federal assistance  
68 during postdisaster emergency operations.



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69 (d) During a declared state or local emergency and upon the  
70 request of the director of a local emergency management agency,  
71 the district school board or school boards in the affected area  
72 shall participate in emergency management by providing  
73 facilities and necessary personnel to staff such facilities.  
74 Each school board providing transportation assistance in an  
75 emergency evacuation shall coordinate the use of its vehicles  
76 and personnel with the local emergency management agency.

77 (e) County emergency management agencies may charge and  
78 collect fees for the review of emergency management plans on  
79 behalf of external agencies and institutions. Fees must be  
80 reasonable and may not exceed the cost of providing a review of  
81 emergency management plans in accordance with fee schedules  
82 established by the division.

83 (2) MUNICIPALITIES.—Legally constituted municipalities are  
84 authorized and encouraged to create municipal emergency  
85 management programs. Municipal emergency management programs  
86 shall coordinate their activities with those of the county  
87 emergency management agency. Municipalities without emergency  
88 management programs shall be served by their respective county  
89 agencies. If a municipality elects to establish an emergency  
90 management program, it must comply with all laws, rules, and  
91 requirements applicable to county emergency management agencies.  
92 Each municipal emergency management plan must be consistent with  
93 and subject to the applicable county emergency management plan.  
94 In addition, each municipality must coordinate requests for  
95 state or federal emergency response assistance with its county.  
96 This requirement does not apply to requests for reimbursement  
97 under federal public disaster assistance programs.



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98 (3) EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.—

99 (a) In carrying out the provisions of ss. 252.31-252.90,  
100 each political subdivision shall have the power and authority:

101 1. To appropriate and expend funds; make contracts; obtain  
102 and distribute equipment, materials, and supplies for emergency  
103 management purposes; provide for the health and safety of  
104 persons and property, including emergency assistance to the  
105 victims of any emergency; and direct and coordinate the  
106 development of emergency management plans and programs in  
107 accordance with the policies and plans set by the federal and  
108 state emergency management agencies.

109 2. To appoint, employ, remove, or provide, with or without  
110 compensation, coordinators, rescue teams, fire and police  
111 personnel, and other emergency management workers.

112 3. To establish, as necessary, a primary and one or more  
113 secondary emergency operating centers to provide continuity of  
114 government and direction and control of emergency operations.

115 4. To assign and make available for duty the offices and  
116 agencies of the political subdivision, including the employees,  
117 property, or equipment thereof relating to firefighting,  
118 engineering, rescue, health, medical and related services,  
119 police, transportation, construction, and similar items or  
120 services for emergency operation purposes, as the primary  
121 emergency management forces of the political subdivision for  
122 employment within or outside the political limits of the  
123 subdivision.

124 5. To request state assistance or invoke emergency-related  
125 mutual-aid assistance by declaring a state of local emergency in  
126 the event of an emergency affecting only one political



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127 subdivision. The duration of each state of emergency declared  
128 locally is limited to 7 days; it may be extended, as necessary,  
129 in 7-day increments. Further, the political subdivision has the  
130 power and authority to waive the procedures and formalities  
131 otherwise required of the political subdivision by law  
132 pertaining to:

133 a. Performance of public work and taking whatever prudent  
134 action is necessary to ensure the health, safety, and welfare of  
135 the community.

136 b. Entering into contracts.

137 c. Incurring obligations.

138 d. Employment of permanent and temporary workers.

139 e. Utilization of volunteer workers.

140 f. Rental of equipment.

141 g. Acquisition and distribution, with or without  
142 compensation, of supplies, materials, and facilities.

143 h. Appropriation and expenditure of public funds.

144 (b) Upon the request of two or more adjoining counties, or  
145 if the Governor finds that two or more adjoining counties would  
146 be better served by an interjurisdictional arrangement than by  
147 maintaining separate emergency management agencies and services,  
148 the Governor may delineate by executive order or rule an  
149 interjurisdictional area adequate to plan for, prevent,  
150 mitigate, or respond to emergencies in such area and may direct  
151 steps to be taken as necessary, including the creation of an  
152 interjurisdictional relationship, a joint emergency plan, a  
153 provision for mutual aid, or an area organization for emergency  
154 planning and services. A finding of the Governor pursuant to  
155 this paragraph shall be based on one or more factors related to



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156 the difficulty of maintaining an efficient and effective  
157 emergency prevention, mitigation, preparedness, response, and  
158 recovery system on a unijurisdictional basis, such as:

- 159 1. Small or sparse population.
- 160 2. Limitations on public financial resources severe enough  
161 to make maintenance of a separate emergency management agency  
162 and services unreasonably burdensome.
- 163 3. Unusual vulnerability to emergencies as evidenced by a  
164 past history of emergencies, topographical features, drainage  
165 characteristics, emergency potential, and presence of emergency-  
166 prone facilities or operations.
- 167 4. The interrelated character of the counties in a  
168 multicounty area.
- 169 5. Other relevant conditions or circumstances.

170 (4) INVALIDATION OF CERTAIN EMERGENCY MEASURES.—The  
171 Governor, or the Legislature by concurrent resolution, may at  
172 any time invalidate an order, an ordinance, a proclamation, a  
173 rule, or any other measure issued by a political subdivision to  
174 address a purported emergency if the Governor or Legislature  
175 determines that such order unnecessarily restricts a  
176 constitutional right, fundamental liberty, or statutory right.

177 Section 2. Subsection (4) is added to section 252.46,  
178 Florida Statutes, to read:

179 252.46 Orders and rules.—

180 (4) An order issued by a political subdivision shall  
181 automatically expire 10 days after its issuance; however, such  
182 an order may be extended before its expiration by a majority  
183 vote of the governing body of the political subdivision if  
184 deemed necessary. Upon the expiration of an order, a political



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185 subdivision may not issue a substantially similar order to  
186 respond to the same emergency.

187 Section 3. This act shall take effect July 1, 2021.

188

189 ===== T I T L E A M E N D M E N T =====

190 And the title is amended as follows:

191 Delete everything before the enacting clause  
192 and insert:

193 A bill to be entitled  
194 An act relating to emergency management powers of  
195 political subdivisions; amending s. 252.38, F.S.;  
196 specifying that a political subdivision has the burden  
197 of proving the proper exercise of its police power in  
198 the issuance of certain emergency orders; authorizing  
199 the Governor or the Legislature to invalidate  
200 emergency orders issued by a political subdivision  
201 under specified conditions; amending s. 252.46, F.S.;  
202 providing for the expiration of emergency orders  
203 issued by a political subdivision; authorizing the  
204 extension of such orders if certain conditions are  
205 met; prohibiting the political subdivision from  
206 issuing a subsequent order for the same emergency that  
207 is substantially similar to the expired order;  
208 providing an effective date.