

**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 Fiscal Policy

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BILL: SB 4-A

INTRODUCER: Senator Hutson

SUBJECT: Disaster Relief

DATE: December 12, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett/Hunter</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Hackett/Hunter</u>	<u>Yeatman</u>	<u>FP</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 4-A provides for a number of disaster relief efforts in the wake of the 2022 hurricane season, in which 2 disastrous hurricanes struck the state of Florida, resulting in widespread destruction of homes, infrastructure, agricultural lands, beaches, and more.

On September 28, 2022, Hurricane Ian made landfall in southwest Florida as a high-end Category 4 storm which brought heavy rainfall, deadly storm surge, and extensive wind damage to Florida. Just two months later, Hurricane Nicole made landfall on Florida's east coast causing residential damage, flooding, and shoreline erosion on coastal communities and exacerbated the impacts of Hurricane Ian.

The bill provides the following provisions to further supplement hurricane relief efforts across the state:

- Extends the due dates for property taxes levied in 2022 for property owners whose property was destroyed or rendered uninhabitable by Hurricanes Ian or Nicole.
- Authorizes property tax refunds for residential properties that were made uninhabitable for at least 30 days by either hurricane for the portion of the year that the residence was unusable.
- Appropriates \$350 million from the General Revenue Fund to the Division of Emergency Management (DEM) to provide the full match requirement for FEMA Public Assistance grants to local governments affected by the two hurricanes.
- Appropriates \$150 million from the General Revenue Fund to the Florida Housing Finance Corporation, of which \$60 million shall be provided to local governments to assist persons with the repair or replacement of housing, relocation costs, housing reentry assistance, and insurance deductibles. \$90 million shall be used to fund the Rental Recovery Loan Program to promote development and rehabilitation of affordable housing in affected areas.
- Appropriates \$251.5 million from the General Revenue Fund to the Department of Environmental Protection (DEP) for:
  - Beach erosion projects (\$100 million)
  - Hurricane Reimbursement Grant Program (\$50 million)

- Hurricane Stormwater and Wastewater Assistance Grant Program (\$100 million)
- DEP administrative costs (\$1.5 million).
- Provides for the creation of a direct-support organization for the DEM to provide assistance, funding, and support to DEM in its disaster response, recovery, and relief efforts for natural emergencies.

The bill takes effect upon becoming a law, except as otherwise provided.

## II. Present Situation:

### Presidential Disaster and Emergency Declarations

When there is a disaster in the United States, the Governor of an affected state must request an emergency and major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.<sup>1</sup> All emergency and disaster declarations are made at the discretion of the President of the United States.<sup>2</sup> There are two types of disaster declarations, emergency declarations and major disaster declarations.<sup>3</sup> Both declarations allow for federal assistance to states and local governments, however they differ in scope, types, and amount of assistance available.<sup>4</sup>

The President can declare an emergency for any occasion where federal assistance is deemed necessary, and emergency declarations provide emergency services from the federal government in such cases. The total amount of assistance from an emergency declaration cannot exceed \$5 million unless reported to Congress.<sup>5</sup>

Following a request from the Governor, the President can declare a major disaster for any natural event, including hurricanes if the President deems that the disaster is of such a severity that it will exhaust resources available from state and local governments.<sup>6</sup> A major disaster declaration makes a wide range of federal assistance resources available for individuals and states for emergency and permanent work.<sup>7</sup>

### Hurricane Ian

On September 28, 2022, Hurricane Ian made landfall in southwest Florida as a high-end Category 4 storm which brought heavy rainfall, deadly storm surge, and extensive wind damage to Florida.<sup>8</sup> The storm maintained sustained winds of 150 mph as it hit the peninsula, tying it for fifth strongest recorded storm to make landfall in the United States.<sup>9</sup> The storm's combination of

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<sup>1</sup> 2 U.S.C. §§ 5121-5207

<sup>2</sup> FEMA, *How a Disaster Gets Declared*, available at: <https://www.fema.gov/disaster/how-declared> (last visited Dec. 7, 2022.)

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

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

<sup>8</sup> National Environmental Satellite Data and Information Service, *Hurricane Ian's Path of Destruction*, available at: <https://www.nesdis.noaa.gov/news/hurricane-ians-path-of-destruction> (last visited Dec. 2, 2022).

<sup>9</sup> *Id.*

size, severe winds, heavy rainfall, and extraordinary storm surge caused damage and property loss across Florida, and especially in southwest Florida. After landfall, more than 2.6 million utility customers were without power.<sup>10</sup> Infrastructure in Southwest Florida was significantly impacted including the washing away of many structures on the barrier islands of Fort Myers Beach, Captiva, Sanibel, and Pine Island. The sole bridge to Pine Island, as well as the Sanibel Causeway Bridge, were significantly damaged which cut off access by land to those islands.

According to the National Oceanic and Atmospheric Administration (NOAA), since 1980, five hurricanes have produced \$20+ billion in damage costs in Florida — Andrew (1992), Charley (2004), Wilma (2005), Irma (2017), and Michael (2018). Hurricanes Andrew and Irma produced the highest damage totals in Florida with approximately \$50 billion for each storm. With damage assessments still ongoing, Hurricane Ian's impact is anticipated to reach or exceed this level of total direct costs.<sup>11</sup>

Days prior to landfall, on September 23, 2022, Governor DeSantis issued Executive Order 22-218,<sup>12</sup> declaring a state of emergency for several counties due to the dangers of Tropical Depression Nine, which would become Hurricane Ian.<sup>13</sup> Governor DeSantis requested an expedited major disaster declaration on September 28, 2022, and a preliminary damage assessment quickly determined that the event was of the severity and magnitude that substantial federal disaster assistance would be necessary. On September 29, 2022, President Biden made a major disaster declaration for the state of Florida.<sup>14</sup> On November 21, 2022, Governor DeSantis issued Executive order 22-268 which renewed the state of emergency for 60 days.<sup>15</sup>

### **Hurricane Nicole**

On November 7, 2022, Governor DeSantis issued Executive Order 22-253, declaring a state of emergency for several counties due to the dangers of subtropical storm Nicole which had formed east of the Bahamas.<sup>16</sup> The storm increased its intensity and made landfall as a Category 1 hurricane near Vero Beach on Florida's east coast bringing beach erosion, heavy rainfall, and coastal and river flooding, but decreased to a tropical storm for the majority of the time it impacted Florida.<sup>17</sup> The impacts of Hurricane Nicole on coastal communities exacerbated the impacts that Hurricane Ian had on the same areas.

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<sup>10</sup> NOAA, *Hurricane Ian Special Summary*, available at:

<https://www.ncei.noaa.gov/access/monitoring/monthly-report/national/202209/supplemental/page-5> (last visited Dec. 7, 2022).

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

<sup>12</sup> State of Florida Executive Order 22-218, available at: <https://www.flgov.com/wp-content/uploads/2022/09/EO-22-218.pdf> (last visited Dec. 2, 2022).

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

<sup>14</sup> FEMA, *Declaration of Major Disaster for Hurricane Ian* (DR-4673-FL), available at: [DR-4673-FL EHP Public Notice 001 | FEMA.gov](https://www.fema.gov/DR-4673-FL-EHP-Public-Notice-001) (last visited December 7, 2022).

<sup>15</sup> State of Florida Executive Order 22-218, available at: <https://www.flgov.com/wp-content/uploads/2022/11/EO-22-268.pdf> (last visited Dec. 2, 2022).

<sup>16</sup> *Id.*

<sup>17</sup> Executive Office of the Governor, *Florida Responds to Impacts from Tropical Storm Nicole*, available at: <https://www.flgov.com/2022/11/10/florida-responds-to-impacts-from-tropical-storm-nicole/> (last visited Dec. 7, 2022).

Nicole caused significant damage to infrastructure and buildings along the east coast due to storm surge, as well as beach erosion. Portions of scenic Highway A1A required emergency repair caused by the erosion eating away at the highway's shoulder.<sup>18</sup> Homes and other residences were washed away by the ocean due to sand erosion and storm surge.<sup>19</sup> Nicole also caused inland flooding from heavy rainfall causing rivers to jump their banks.<sup>20</sup>

On November 8, 2022, President Biden made a declaration of emergency for Hurricane Nicole for Florida,<sup>21</sup> making the state eligible for a subset of emergency federal disaster assistance. On December 2, 2022, Governor DeSantis requested President Biden issue a major disaster declaration for Florida as a result of Hurricane Nicole and authorize additional federal disaster assistance.<sup>22</sup>

### **FEMA Public Assistance Grant Program**

FEMA's Public Assistance (PA) Grant Program provides funding to states, tribes, local governments and certain types of private non-profit organizations to assist them in responding to and recovering from presidentially-declared major disasters or emergencies. PA is intended to supplement state and local resources when an incident exceeds their ability to respond and recover. PA is only available after the President declares an emergency or major disaster upon request by the governor of the affected state. Preliminary damage assessments by FEMA, in collaboration with state, local, and tribal governments, are used to determine if the estimated cost of assistance exceeds certain thresholds and whether PA should be authorized. In Florida, once PA is authorized, the Florida Division of Emergency Management (DEM) becomes the primary PA grant recipient. State, tribal, and local governments, as well as eligible non-profit entities, may then apply for funding as "applicants." Applicants must submit a request for grant funds to the DEM, which evaluates eligibility for PA with FEMA.<sup>23</sup>

PA funds are categorized broadly as either "emergency work" or "permanent work." Within those two broad categories are separate sub-categories, as provided in the chart below.<sup>24</sup> Emergency work<sup>25</sup> (Categories A and B) may be authorized under an emergency or major disaster declaration. It includes efforts undertaken to save lives and protect property and public health and safety, or to lessen or avert an immediate threat of additional damage. Permanent

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<sup>18</sup> *Id.*

<sup>19</sup> CNN, *Beachfront homes in small Florida community washed away by Hurricane Nicole*, available at: <https://www.cnn.com/2022/11/12/us/volusia-county-homes-hurricane-nicole> (last visited Dec. 7, 2022).

<sup>20</sup> Click Orlando, *Nicole causes Halifax River to jump banks, flood portions of Port Orange*, available at: <https://www.clickorlando.com/news/local/2022/11/10/hurricane-nicole-causes-halifax-river-to-jump-banks-flooding-portions-of-port-orange/> (last visited Dec. 7, 2022).

<sup>21</sup> FEMA, *Declaration of Emergency for Tropical Storm Nicole (3587-EM-FL)*, FEMA, available at: <https://www.fema.gov/disaster-federal-register-notice/3587-em-fl-initial-notice> (last visited Dec. 2, 2022).

<sup>22</sup> Executive Office of the Governor, *Request for a Major Disaster Declaration (Hurricane Nicole)*, Dec. 2, 2022, on file with Committee on Community Affairs.

<sup>23</sup> Congressional Research Service, *A Brief Overview of FEMA's Public Assistance Program*, available at: <https://crsreports.congress.gov/product/pdf/IF/IF11529> (last visited Dec. 7, 2022).

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

<sup>25</sup> The performance period for emergency work is normally within 6 months after the presidential declaration, unless extended.

work<sup>26</sup> (Categories C–G) may only be authorized under a major disaster declaration. It includes efforts to repair, restore, reconstruct, or replace disaster-damaged public and eligible private nonprofit facilities.<sup>27</sup>

<u>Emergency Work</u> (Emergency and Major Disaster Declaration)	<u>Permanent Work</u> (Major Disaster Declaration only)
<ul style="list-style-type: none"> <li>• Category A: Debris removal<sup>28</sup></li> <li>• Category B: Emergency protective measures<sup>29</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Category C: Roads and bridges</li> <li>• Category D: Water control facilities</li> <li>• Category E: Public buildings/equipment</li> <li>• Category F: Public utilities</li> <li>• Category G: Parks &amp; rec/other facilities</li> </ul>

***PA Cost-sharing***

PA funding is subject to a cost-share, of which the federal share may not be less than 75 percent of the eligible costs.<sup>30</sup> The federal cost share may be increased beyond 75 percent in limited circumstances, and for limited periods of time, if warranted.<sup>31</sup>

Florida Statutes provides that in cases where the state accepts federal assistance under the PA Program, and such assistance requires matching funds, the state will provide the full match requirement for state agencies and one-half of the required match for local governments.<sup>32</sup> However, eligible private non-profits are responsible for the entire required match.

In cases of hardship, local governments can apply to the Executive Office of the Governor for a partial or complete waiver of the required match amount if the local government applies within the first 18 months a disaster is declared.<sup>33</sup>

***PA for Hurricanes Ian and Nicole***

**Hurricane Ian**

Hurricane Ian-impacted counties are currently eligible for PA, including both emergency and permanent work categories.<sup>34</sup> The federal government agreed to fund 100 percent of eligible costs for PA emergency work (debris removal and emergency protective measures) through

<sup>26</sup> The performance period for permanent work is normally within 18 months after the presidential declaration, unless extended.

<sup>27</sup> FEMA, *Public Assistance Program and Policy Guide*, Version 4, p. 140, available at: [https://www.fema.gov/sites/default/files/documents/fema\\_pappg-v4-updated-links\\_policy\\_6-1-2020.pdf](https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf) (last visited Dec. 7, 2022).

<sup>28</sup> Applicants may receive direct assistance or reimbursement for the costs of removing debris and wreckage from public and private property.

<sup>29</sup> Applicants may receive direct assistance and reimbursement for work undertaken to save lives and protect property (e.g., search and rescue, emergency transportation, and distribution of food and first aid).

<sup>30</sup> *Supra* note 27 at p. 25.

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

<sup>32</sup> Section 252.37(5)(a), F.S.

<sup>33</sup> Section 252.37(5)(b), F.S.

<sup>34</sup> See FEMA, *Florida Hurricane Ian, Designated Areas: Disaster 4673*, available at: <https://www.fema.gov/disaster/4673/designated-areas> (last visited Dec. 7, 2022).

December 7, 2022.<sup>35</sup> The federal cost-share for emergency work is now 75 percent, consistent with the other PA categories for Hurricane Ian.

<b>Hurricane Ian PA Eligibility</b> (as of Dec. 8, 2022)	
Emergency Work	
• Category A: Debris removal	28 counties <sup>36</sup>
• Category B: Emergency protective measures	67 counties
Permanent Work	
• Category C: Roads and bridges • Category D: Water control facilities • Category E: Public buildings/equipment • Category F: Public utilities • Category G: Parks & rec/other facilities	28 counties <sup>37</sup>

Hurricane Nicole

Hurricane Nicole-impacted counties are currently eligible for PA, emergency protective measures (Category B) only.<sup>38</sup> The federal cost-share for this assistance is 75 percent. If Governor DeSantis’ request for a major disaster declaration for Hurricane Nicole is approved, additional PA categories will likely be authorized.

<b>Hurricane Nicole PA Eligibility</b> (as of Dec. 8, 2022)	
Emergency Work	
• Category A: Debris removal	0
• Category B: Emergency protective measures	61 counties <sup>39</sup>
Permanent Work	
• Category C: Roads and bridges • Category D: Water control facilities • Category E: Public buildings/equipment • Category F: Public utilities • Category G: Parks & rec/other facilities	Not eligible under emergency declaration

<sup>35</sup> The White House, *President Joseph R. Biden Amends Florida Disaster Declaration*, Nov. 28, 2022, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/11/28/president-joseph-r-biden-jr-amends-florida-disaster-declaration-2/> (last visited Dec. 7, 2022).

<sup>36</sup> The 28 eligible counties are: Brevard, Charlotte, Collier, DeSoto, Duval, Flagler, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Monroe, Okeechobee, Orange, Osceola, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, Sumter, and Volusia.

<sup>37</sup> *Id.*

<sup>38</sup> See FEMA, *Florida Tropical Storm Nicole, Designated Areas: Disaster 3587*, available at: <https://www.fema.gov/disaster/3587/designated-areas> (last visited Dec. 7, 2022).

<sup>39</sup> The six counties that are not eligible are: Escambia, Santa Rosa, Okaloosa, Walton, Bay, and Monroe.

## General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>40</sup> The property appraiser annually determines the assessed or “just value”<sup>41</sup> of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>42</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>43</sup> and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>44</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>45</sup> however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.<sup>46</sup>

### *The Value Adjustment Board Process*

Each county has a Value Adjustment Board (VAB), comprised of two members of the governing body of the county, one member of the school board, and two citizen members appointed by the governing body of the county.<sup>47</sup> The county clerk acts as the clerk of the VAB.<sup>48</sup> A property owner may initiate an assessment valuation challenge by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.<sup>49</sup>

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<sup>40</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>41</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>42</sup> *See* s. 192.001(2) and (16), F.S.

<sup>43</sup> FLA. CONST. art. VII, s. 1(a).

<sup>44</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>45</sup> Section 193.011(2), F.S.

<sup>46</sup> FLA. CONST. art. VII, s. 4.

<sup>47</sup> Section 194.015, F.S.

<sup>48</sup> *Id.*

<sup>49</sup> Section 194.011(3)(d), F.S. With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser.

The clerk of the VAB will schedule the petition for a hearing, during which a special magistrate will hear testimony and make a recommendation to the VAB on how the petition should be resolved.<sup>50</sup> The VAB renders a written decision within 20 calendar days after the last day the VAB is in session.<sup>51</sup> The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.<sup>52</sup> The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB.<sup>53</sup>

The VAB must meet between 30 and 60 days after receiving a notice of objection to an assessment, but not before approval of all or any part of the assessment rolls by the Department of Revenue.<sup>54</sup> The VAB may, however, meet before Department approval, but not earlier than July 1, to hear certain appeals, such as those related to tax refunds for housing rendered uninhabitable under s. 197.319, F.S.<sup>55</sup>

### ***Ad Valorem Tax Due Dates and Discounts***

Taxes are, under normal circumstances, due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector, and delinquent on April 1 following the year in which they are assessed.<sup>56</sup> Taxes are subject to discount payment periods, which provide discounts at the rate of:

- 4 percent in the month of November;
- 3 percent in the month of December;
- 2 percent in the following month of January; and
- 1 percent in the following month of February.<sup>57</sup>

These dates are adjusted for changes to the date taxes are due and payable, as well as under circumstances including a corrected tax notice being issued.

Taxes are payable as prepayment through four payments based on estimated levies.<sup>58</sup> A prepayment plan requires payments on July 31, September 30, and December 31 the year in which taxes are assessed, and a final payment by the following March 31. Additionally, a property owner who petitions before the value adjustment board to challenge the assessed value of their property must nonetheless pay all non-ad valorem assessments and make a partial payment of at least 75 percent of the ad valorem taxes prior to delinquency.<sup>59</sup>

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<sup>50</sup> Section 194.035, F.S.

<sup>51</sup> Section 194.034(2), F.S.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> Section 194.032(1)(a), F.S.

<sup>55</sup> Section 194.032(1)(b), F.S.

<sup>56</sup> Section 197.333, F.S.

<sup>57</sup> Section 197.162, F.S.

<sup>58</sup> Section 197.222, F.S.

<sup>59</sup> Section 194.014, F.S.



### Executive Order 22-242 Extending Due Dates

On October 20, 2022, Governor DeSantis, by executive order, delayed due dates of property taxes for property owners whose property was completely destroyed or otherwise rendered uninhabitable by Hurricane Ian by 60 days.<sup>60</sup> The affected ad valorem taxes and non-ad valorem assessments levied in 2022 are due and payable on January 1, 2023. Those assessments will become delinquent on June 1, 2023, and all dates or time periods, and associated provisions related to the collection or administration of delinquent taxes and non-ad valorem assessments, are extended based on the June 1, 2023 delinquency date.

The order also provided new tax discount periods for those property owners at the rate of:

- 4 percent in the months of November 2022, December 2022, and January 2023;
- 3 percent in the month of February 2023;
- 2 percent in the month of March 2023; and
- 1 percent in the month of April 2023.

The order further provided that such property owners who prepay estimated taxes by installment pursuant to s. 197.222, F.S., have such payments suspended and extended for 60 days, and any such property owners whose property is subject to partial payment pending value adjustment board action under s. 194.014, F.S., have such payments suspended and tolled for the duration of the order, 60 days from October 20, 2022.

### ***Tax Abatement for Natural Disasters***

The Legislature has provided tax relief for property damaged by natural disasters on at least five occasions.<sup>61</sup> In 1988, the Legislature provided an abatement of taxes for properties damaged by windstorms or tornadoes.<sup>62</sup> To receive the abatement, the property owner was required to file an application with the property appraiser by March 1 of the year following the year in which the windstorm or tornado occurred.<sup>63</sup> After making a determination on the validity of the application, the property appraiser was directed to issue an official statement to the tax collector containing the number of months the property was uninhabitable due to the damage or destruction, the value of the property prior to the damage or destruction, the total taxes due on the property as reduced by the number of months the property was uninhabitable, and the amount of the reduction in taxes.<sup>64</sup>

Upon receipt of the official statement, the tax collector reduced the amount of taxes due on the property on the tax collection roll and informed the board of county commissioners and the Department of Revenue (DOR) of the total reduction in taxes for all property in the county receiving the abatement.<sup>65</sup> The law was applied retroactively to January 1, 1988, and included a repeal effective July 1, 1989.<sup>66</sup> The language was removed from statute in 1992.<sup>67</sup>

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<sup>60</sup> State of Florida Executive Order 22-242 (on file with Community Affairs Committee).

<sup>61</sup> Chapters 88-101, 98-185, 2004-474, 2007-106, and 2018-118, Laws of Fla.

<sup>62</sup> Section 196.295(3), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

<sup>63</sup> Section 196.295(3)(a), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

<sup>64</sup> Section 196.295(3)(d), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

<sup>65</sup> Section 196.295(3)(e)-(f), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

<sup>66</sup> Section 196.295(3)(h), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

<sup>67</sup> Chapter 92-173, s. 8, Laws of Fla.

Most recently, the Legislature applied a similar process to abate taxes for homestead parcels damaged or destroyed by Hurricanes Hermine and Matthew in 2016 or Hurricane Irma in 2017. If the residential improvement was rendered uninhabitable for at least 30 days due to such a hurricane, taxes initially levied in 2019 could be abated.<sup>68</sup> The Legislature was required to appropriate funds to fiscally constrained counties to offset the reduction in ad valorem tax revenue resulting from the abatement.<sup>69</sup>

### ***Refund for Residential Improvements Rendered Uninhabitable by Catastrophic Events***

In 2022 the Legislature created s. 197.319, F.S., to provide for the prorated refund of property taxes on residential properties rendered uninhabitable by a catastrophic event. The law defines “catastrophic event” as a calamity or misfortune not caused, either directly or indirectly, by the property owner with the intent to destroy the property.<sup>70</sup>

If a residential property is rendered uninhabitable for 30 days or more by a catastrophic event, the property owner may be refunded a portion of their property taxes for the time the property was uninhabitable. To do so, the property owner must file an application for refund with the property appraiser. If the property is restored to an inhabitable condition prior to December 1 of the year in which the catastrophic event occurs, the property owner must file their application for refund no sooner than 30 days after the property is restored. Otherwise, the property owner must file the application no later than March 1 of the year immediately following the catastrophic event.<sup>71</sup> If the property owner fails to file the application by the March 1 deadline due to particular extenuating circumstances, they may file an application for refund and may file a petition to the value adjustment board requesting that the refund be granted.

Along with the application, the property appraiser may request supporting documentation to be submitted, including, but not limited to, utility bills, insurance information, contractors’ statements, building permit applications, or building inspection certificates of occupancy for purposes of determining conditions of uninhabitability and subsequent habitability following any repairs.<sup>72</sup> After receiving the application, the property appraiser must then investigate the statements contained in the application to determine if the property owner is entitled to a refund of taxes. The applicant may file a petition to the value adjustment board if the property appraiser determines that they are not entitled to a refund.<sup>73</sup> If the property appraiser finds that the applicant is entitled to a refund, they must then provide an official written statement to the tax collector within 30 days of making such determination, but no later than April 1 of the year following the date of the catastrophic event providing the following:

- The just value of the property on January 1 of the year in which the catastrophic event occurred
- The number of days the property was uninhabitable
- The postcatastrophic event just value, as determined by the property appraiser

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<sup>68</sup> Chapter 2018-118, s. 17, Laws of Fla. enacting s. 197.318, F.S.

<sup>69</sup> Section 218.135, F.S., (2018) (Repealed 2019).

<sup>70</sup> Section 197.319(1)(a), F.S.

<sup>71</sup> Section 197.319(2)(a), F.S.

<sup>72</sup> *Id.*

<sup>73</sup> Section 197.319(d), F.S.

- The percent change in value applicable to the parcel.<sup>74</sup>

Upon receipt of this information, the tax collector will then calculate the damage differential pursuant to this section and process a refund equal to the applicable catastrophic event refund.<sup>75</sup> By September 1 of each year, the tax collector is required to notify DOR of the total reduction in taxes for all properties that qualified for a refund, and the governing board of each affected local government of the reduction in their taxes as a result of refunds.<sup>76</sup>

The law does not change current law requirements for the payment of property taxes. The relief created by the provision is available to property owners solely as a refund of taxes paid.

This law is effective January 1, 2023, and will first apply to the 2023 tax rolls.

### **Hurricane Recovery Programs for Housing**

Following the 2004 hurricane season, a statewide Hurricane Housing Work Group was created to recommend how best to leverage funding recommended by the Governor for hurricane housing recovery needs. The work group recommended, and the Legislature subsequently funded, the Hurricane Housing Recovery Program (HHRP) and the Rental Recovery Loan Program (RRLP).<sup>77</sup> As a result of the work group's recommendation, the 2005 Legislature appropriated \$250 million for housing recovery: \$208 million for the HHRP and another \$42 million for the RRLP.<sup>78</sup> With those resources, and an additional \$93 million appropriation in 2006 for hurricane rental funding, the Florida Housing Finance Corporation (FHFC) states that it assisted over 10,000 families with the HHRP and created over 1,600 units with the RRLP. After the 2018 hurricane season, the 2018 and 2019 General Appropriations Acts included appropriations for the HHRP of \$85 million and the RRLP of \$50 million over the two years.<sup>79</sup>

Additionally, related to recovery from emergencies, s. 420.9073(5), F.S., authorizes FHFC to withhold up to \$5 million of the total amount distributed each fiscal year from the Local Government Housing Trust Fund to provide additional funding to counties and eligible municipalities where a state of emergency has been declared by the Governor. Most recently, related to Hurricane Ian, the FHFC is awarding the \$5 million set aside to local SHIP offices in areas hardest hit by Hurricane Ian to assist residents in Charlotte, Collier, DeSoto, Hardee, Lee, and Sarasota counties to pay home insurance deductibles.<sup>80</sup>

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<sup>74</sup> Section 197.319(2)(e), F.S.

<sup>75</sup> Section 197.319(3), F.S.

<sup>76</sup> Section 197.319(5), F.S.

<sup>77</sup> See FHFC, *2006 Annual Report*, p. 40 and 42, available at [https://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2006AR\\_SpreadsPDFweb.pdf](https://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2006AR_SpreadsPDFweb.pdf) (last visited Dec. 9, 2022).

<sup>78</sup> Chapter 2006-69, Laws of Fla.

<sup>79</sup> Chapters 2019-115, s. 2316A, and 2020-111, s. 2282A, Laws of Fla. An additional \$10 million was appropriated for first-time homebuyer and down payment assistance in the impacted areas.

<sup>80</sup> FHFC, *Disaster Relief Resources and Information*, available at <https://www.floridahousing.org/programs/special-programs/ship---state-housing-initiatives-partnership-program/disaster-relief> (last visited Dec. 9, 2022).

### ***Hurricane Housing Recovery Program***

The Hurricane Housing Recovery Program was created as a local housing recovery program and modeled after the existing State Housing Incentive Program (SHIP) aimed at assisting homeowners with post-hurricane recovery efforts. The HHRP funds were distributed to local governments using a need-based formula to allow local communities to evaluate and address needs as appropriate. The program required that local governments submit a strategy outlining proposed recovery actions, income levels, and number of units to be served.

### ***Rental Recovery Loan Program***

The Rental Recovery Loan Program was created to provide affordable rental units needed to promote the housing recovery needs of local communities. Modeled in part after the State Apartment Incentive Loan (SAIL) Program, the RRLP program allowed the state to leverage existing federal rental financing programs to provide units that served a range of incomes, including extremely low income households, throughout the areas impacted by the hurricanes.

### **Beach Funding**

Funding for Florida's critically eroded beaches is managed by the Beach Management Funding Assistance Program. The program provides grants to local governments (up to 75% of project costs) for beach and inlet management projects to restore and nourish the state's most severely eroded beaches.<sup>81</sup> These projects protect upland structures and infrastructure, provide critical habitat for threatened and endangered species, provide recreational opportunities, and support local economies through tourism.<sup>82</sup>

The Department of Environmental Protection (DEP) accepts funding requests on an annual basis from local governments and municipalities for beach and inlet management projects.<sup>83</sup> To be eligible for funding, projects must be accessible to the public, located on the Gulf of Mexico, Atlantic Ocean or Straits of Florida, be designated by DEP as a critically eroded beach, and be consistent with the state's Strategic Beach Management Plan.<sup>84</sup>

The funds are cost-shared with local governments on local and federally authorized projects, with each level of government contributing about one-third of the cost of the entire program.<sup>85</sup> This funding has resulted in the restoration and subsequent maintenance of more than 253.1 miles, or 60%, of the state's 422.7 miles of critically eroded beaches.<sup>86</sup>

In FY 2022-2023, DEP received a new appropriation of \$50 million for distribution to beach and inlet management projects, including projects on the annual ranked lists, storm repair projects,

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<sup>81</sup> Section 161.101(1), F.S.

<sup>82</sup> DEP, *Beaches Funding Program*, available at <https://floridadep.gov/rcp/beaches-funding-program> (last visited Dec. 7, 2022).

<sup>83</sup> Fla. Admin. Code R. 62B-36.005.

<sup>84</sup> Fla. Admin. Code Chapter 62B-36. *See also* DEP, *Beaches Funding Program*, available at: <https://floridadep.gov/rcp/beaches-funding-program> (last visited Dec. 7, 2022).

<sup>85</sup> DEP, *Beaches Funding Program*, available at: <https://floridadep.gov/rcp/beaches-funding-program> (last visited Dec. 7, 2022).

<sup>86</sup> *Id.*

and projects on lands managed by the state.<sup>87</sup> The previous year (FY 2021-2022), DEP received \$100 million for beach and inlet projects.<sup>88</sup> The appropriation included a provision allowing DEP to waive or reduce the match requirements for beaches impacted by hurricanes or other storm events within communities with a per capita annual income that is less than the state's per capita annual income.<sup>89</sup> This provision expired July 1, 2022.<sup>90</sup>

### **Direct-Service Organizations**

Direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support. Section 20.058(5), F.S., provides that laws creating or authorizing a DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature.

### ***Reporting Requirements***

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for DSOs.<sup>91</sup> Specifically, the law requires each DSO to annually submit, by August 1, the following information to the agency it supports:<sup>92</sup>

- The DSO's name, mailing address, telephone number, and website address;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission and results obtained by the DSO;
- A brief description of the DSO's plans for the next three fiscal years;
- A copy of the DSO's code of ethics; and
- A copy of the DSO's most recent Internal Revenue Service (IRS) Form 990.<sup>93</sup>

Additionally, the information submitted annually by a DSO must be available on the respective agency's website along with a link to the DSO's website, if one exists,<sup>94</sup> and the agency must report the above required information to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability along with the agency's recommendation to continue, terminate, or modify the agency's association with the DSO.<sup>95</sup>

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<sup>87</sup> Chapter 2022-156, s. 1778, Laws of Fla.

<sup>88</sup> Chapter 2021-36, s. 1647, Laws of Fla. *See also* DEP, *Fiscal Year 2021/2022 Financial Summary and Accountability Report* at 3, available at: [https://floridadep.gov/sites/default/files/FY21-22\\_Financial\\_Summary\\_Accountability\\_Report\\_0.pdf](https://floridadep.gov/sites/default/files/FY21-22_Financial_Summary_Accountability_Report_0.pdf) (last visited Dec. 7, 2022).

<sup>89</sup> Section 161.101(22), F.S.

<sup>90</sup> *Id.*

<sup>91</sup> Chapter 2014-96, Laws of Fla.

<sup>92</sup> Section 20.058(1), F.S.

<sup>93</sup> The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

<sup>94</sup> Section 20.058(2), F.S. Further, s. 20.058(4), F.S., requires that any contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website. If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.

<sup>95</sup> Section 20.058(3), F.S.

### *Transparency*

Section 215.981(1), F.S., generally requires a DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.<sup>96</sup> The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a DSO's accounts and records.<sup>97</sup>

Section 20.05(4), F.S., provides that any contract between an agency and a DSO must be contingent upon the DSO submitting and posting information pursuant to s. 20.058(1) and (2), F.S. The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head shall terminate any contract between the agency and the organization.

### *Ethics Code*

Section 112.3251, F.S., requires a DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.<sup>98</sup> A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.<sup>99</sup>

## **III. Effect of Proposed Changes:**

### **Property Tax**

**Section 2** amends s. 194.032, F.S., to provide that the value adjustment board may meet prior to the approval of the assessment rolls by the Department of Revenue (DOR), but no earlier than July 1, to hear appeals pertaining to a property appraiser's denial of the refund provided by s. 197.3181, F.S., created by section 3 of this bill.

**Section 3** creates s. 197.3181, F.S., to provide for a prorated refund of ad valorem taxes for residential improvements rendered uninhabitable by Hurricanes Ian or Nicole. This section operates similarly to current law s. 197.319, F.S., discussed above, but applies only to those properties rendered uninhabitable due to Hurricane Ian or Hurricane Nicole.

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<sup>96</sup> Section 215.981(2), F.S.

<sup>97</sup> Section 11.45(3)(d), F.S.

<sup>98</sup> Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

<sup>99</sup> Section 112.3251, F.S.

Under the section, if a residential improvement is rendered uninhabitable for at least 30 days due to Hurricane Ian or Hurricane Nicole, taxes originally levied and paid for in 2022 may be refunded pro rata based on a “damage differential” calculation. This is calculated by finding the percent change in value from the property’s January 1 value to that value minus that of the residential improvement rendered uninhabitable, then multiplying that percentage by the percentage of the year the improvement was rendered uninhabitable.

The section additionally allows applications for refunds to be filed electronically, no later than April 1, 2023, on a form prescribed by the DOR and furnished by the property appraiser. An applicant must identify the parcel containing the residential improvement rendered uninhabitable, as well as the number of days the improvement was uninhabitable during 2022. This application must be accompanied by supporting documentation and verified under oath. Failure to file such an application by April 1, 2023, waives a property owner’s claim for a refund of taxes under this section.

Upon review, no later than June 1, 2023, the property appraiser must either notify the applicant of ineligibility or notify both the applicant and tax collector if the applicant is eligible for a refund. Applicants found ineligible may file a petition with the value adjustment board requesting that such a refund be granted. Refunds are to be processed by the tax collector upon timely payment of 2022 property taxes by the property owner, or immediately if such taxes have already been paid.

By September 1, 2023, the tax collector is required to notify DOR of the total reduction in taxes for all properties that qualified for a refund, and the governing board of each affected local government of the reduction in their taxes as a result of refunds.

The section applies retroactively to January 1, 2022, and expires January 1, 2024.

**Section 4** creates s. 197.3182, F.S., to provide that, notwithstanding 197.333, F.S., for property owners whose property was completely destroyed or otherwise rendered uninhabitable by Hurricanes Ian or Nicole, all ad valorem taxes and non-ad valorem assessments levied in 2022 are due and payable on January 1, 2023. Those assessments will become delinquent on June 1, 2023, and all dates or time periods, and associated provisions related to the collection or administration of delinquent taxes and non-ad valorem assessments, are extended based on the statutory June 1, 2023 delinquency date.

The bill also provides new tax discount periods for those property owners at the rate of:

- 4 percent in the months of November 2022, December 2022, and January 2023;
- 3 percent in the month of February 2023;
- 2 percent in the month of March 2023; and
- 1 percent in the month of April 2023.

The bill further provides that such property owners who prepay estimated taxes by installment pursuant to s. 197.222, F.S., have such payments suspended and extended for 60 days, and any such property owners whose property is subject to partial payment pending value adjustment

board action under s. 194.014, F.S., have such payments suspended and tolled from October 20, 2022, through December 19, 2022.

This section acts as a codification of Executive Order 22-242 and extension thereof to include properties affected by Hurricane Nicole. The section applies retroactively to January 1, 2022, and expires January 1, 2024.

**Section 7** provides that the DOR may adopt emergency rules pursuant to s. 120.54(4), F.S., to administer the provisions of the bill. Such emergency rules are effective for 6 months after adoption, subject to renewal pending adoption of permanent rules. The provision expires July 1, 2024.

### **FEMA Public Assistance**

**Section 5** amends s. 252.37, F.S., to provide that subject to appropriation, the Legislature intends to provide the entire match requirement for FEMA Public Assistance to local governments within counties designated under disaster declarations for Hurricanes Ian and Nicole on a first-come, first-served basis. To qualify, local governments must enter into agreements with the division to have their match requirements waived and must agree to use an equal amount of funds toward further disaster recovery or mitigation.

The Division of Emergency Management (DEM) must report quarterly to the Executive Office of the Governor and the chair of each legislative appropriations committee on the amount of match requirement waived, agreements entered into with local governments, and the amount of remaining funds available.

This provision expires June 30, 2027.

**Section 8** appropriates \$350 million of non-recurring funds from the General Revenue Fund to the DEM to provide the federal match requirement for FEMA Public Assistance grants for local governments, as provided in section 5 of the bill. The balance of this appropriation which is not disbursed by June 30, 2023, may be carried forward for up to 5 years after the effective date of the bill.

### **DEM Direct-support Organization**

**Section 6** creates s. 252.70, F.S., which establishes the “Florida Emergency Management Assistance Foundation” (“foundation”), a DSO of the Division of Emergency Management (DEM). The foundation is charged with providing assistance, funding, and support to DEM in its disaster response, recovery, and relief efforts for natural emergencies. The foundation is organized as a Florida not-for-profit corporation recognized as such under s. 501(c)(3) of the Internal Revenue Code.

The foundation exists exclusively to obtain funds; request and receive grants, gifts, supplies, and bequests of moneys; acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and make expenditures to or for the direct or indirect benefit of the division,



political subdivisions of this state, and individuals adversely impacted by a natural emergency occurring within this state.

The foundation is governed by a board of directors of five Florida citizen members appointed by the director of DEM for up to two terms of 3 years. A majority of members must be knowledgeable about emergency management activities and programs, and geographic representation must be considered in their selection. A member of the board may be removed by the director at the recommendation of the board for cause and such vacancy filled for the unserved portion of the term. Board members serve without compensation, save reimbursement for per diem and travel expenses from funds managed by the foundation.

The foundation must operate pursuant to a contract with DEM providing for:

- Approval of the articles of incorporation and bylaws of the foundation by the director of DEM;
- Certification of compliance with contract terms and goals of the state and DEM;
- Reversion of funds and property held by the foundation to DEM if:
  - The foundation is no longer approved by DEM,
  - The foundations fails to maintain federal tax-exempt status, or
  - The foundation ceases to exist;
- Reversion of funds and property to the state if DEM ceases to exist;
- Disclosure of the distinction between DEM and the Foundation to donors and recipients of goods, to include disclosure in promotional and fundraising material;
- Approval by the board of directors of an annual operating budget; and
- Adoption of an ethics code as required by statute.

DEM may permit the use of its property, facilities, and personal services by the foundation through the founding contract setting forth requirements and conditions thereto. This permission requires that the foundation provide equal employment opportunities to all persons regardless of race, color, national origin, gender, age, or religion.

The foundation's fiscal year begins July 1 and ends on the following June 30. By August 1 of each year the foundation must submit to DEM federal non-profit recognition forms. The foundation must also annually submit to DEM a budget and report of contributions by September 30, and comply with statutory annual independent audit requirements.

The section, and therefore the foundation, is repealed December 31, 2024, unless reviewed and saved from repeal by the Legislature.

### **Affordable Housing**

**Section 9** appropriates \$150 million in nonrecurring funds from the General Revenue Fund to the Florida Housing Finance Corporation (FHFC). Of these funds:

- \$60 million must be used to fund the Hurricane Housing Recovery Program for eligible counties and municipalities based on FEMA damage assessment data from Hurricanes Ian and Nicole. The funds must be used for hurricane recovery purposes including, but not limited to, repair and replacement of housing; repair, replacement, and relocation assistance for manufactured homes; acquisition of building materials for home repair and construction;

and housing reentry assistance. Up to \$25 million of this amount may be used to provide assistance to homeowners to pay insurance deductibles.

- \$90 million must be used to fund the Rental Recovery Loan Program for eligible counties and municipalities based on FEMA damage assessment data from Hurricanes Ian and Nicole.

FHFC must coordinate with the DEM and the Department of Economic Opportunity to prevent duplication of benefits related to other state or federal programs for recipients of this funding.

### **Beach Restoration**

**Section 1** amends s. 161.101, F.S., to provide that, for the following counties, the DEP may waive or reduce the match requirements for local governments for local participation in beach management and erosion control projects: Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia. This subsection expires July 1, 2023.

**Section 10** establishes the Hurricane Restoration Reimbursement Grant Program within DEP for the purpose of providing financial assistance to mitigate coastal beach erosion for homeowners whose property was significantly impacted by Hurricanes Ian or Nicole. Through the program DEP will provide grants to eligible recipients in Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia Counties.

Projects eligible for grants include sand replacement and temporary or permanent coastal armoring construction.<sup>100</sup> Properties eligible for financial assistance are: single-family, site-built, residential, homestead property; residential condominiums; and cooperatives. Grant funding may only be used to reimburse property owners for construction costs:

- Related to sand placement or temporary or permanent coastal armoring, rather than repair of residential structures;
- Incurred as a result of preparation for or damage sustained from Hurricanes Ian or Nicole;
- Incurred after September 23, 2022; and
- Permitted, exempt from permitting requirements, or otherwise authorized by law.

The DEP must cost-share with \$1 provided by the property owner and \$1 provided by the state for a maximum of \$150,000 in state funding toward the actual cost of the eligible project. Grants will be awarded on a first come, first served basis based on the receipt of a complete application until funding is exhausted. However, the DEP must prioritize applicants are low-income or moderate-income persons, as defined in s. 420.0004.

Each application must be submitted beginning February 1, 2023, and include evidence that the project meets the criteria set out above. If DEP determines that an application meets the

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<sup>100</sup> Coastal “armoring” is the practice of using physical structures to protect shorelines from coastal erosion. Property owners use coastal armoring to stabilize coastal land and protect infrastructure along the coast by building shoreline structures to hold back the sea and prevent sediment loss. These structures include seawalls, breakwaters, and riprap. “What Is Shoreline Armoring?,” National Ocean Service, NOAA, available at <https://oceanservice.noaa.gov/facts/shoreline-armoring.html> (last visited Dec. 9, 2022).

requirements, a cost-share grant agreement will be entered into by both parties. In order to receive a reimbursement payment thereafter, property owners must submit the issued permit, if applicable, and evidence the project complies with such permit's requirements; paid invoices for eligible project costs; and, where applicable, documentation that the eligible project was completed by a licensed professional or contractor.

DEP must adopt emergency rules for the administration of this section before January 31, 2023, and is granted such authority. Such rules shall remain effective for 6 months after adoption. This section expires July 1, 2023.

### **Stormwater and Wastewater Systems**

**Section 11** establishes the Hurricane Stormwater and Wastewater Assistance Grant Program for the purpose of providing financial assistance to local governments in Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia Counties and impacted by Hurricanes Ian or Nicole. The program, administered by DEP, will provide grants to counties, municipalities, and special taxing districts that operate a stormwater or wastewater management system.

DEP must adopt emergency rules prescribing the procedure for applications no later than January 31, 2023, and must have information pertaining to the application process available on its website by February 1, 2023. Grant applications must be submitted by eligible parties on or before March 31, 2023, and must provide proof that the applicant's stormwater or wastewater systems sustained damage as a result of Hurricanes Ian or Nicole, and that such damage poses an immediate threat to the public health or the environment if not immediately addressed. Grants may not exceed \$10 million per project, and must be awarded by May 1, 2023.

This section expires July 1, 2023.

### **DEP Appropriations**

**Section 12** appropriates \$251.5 million in nonrecurring funds from the General Revenue Fund to DEP as Fixed Capital Outlay for damages related to Hurricanes Ian or Nicole. Of these funds:

- \$100 million is to fund beach erosion projects pursuant to s. 161.101, F.S.;
- \$50 million is to fund the Hurricane Restoration Reimbursement Grant Program;
- \$100 million is to fund the Hurricane Stormwater and Wastewater Assistance Grant Program;
- and
- \$1.5 million is to be used by DEP for administrative costs.

**Section 13** provides that this act shall take effect upon becoming a law, except as otherwise provided.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

Article VII, Section 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

This bill reduces the authority of cities and counties to raise revenues by requiring the refund of certain ad valorem taxes, and therefore the mandate provision may apply. If the bill does qualify as a mandate, the final passage must be approved by two-thirds of the membership of each house of the Legislature.

**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:**

The Revenue Estimating Conference determined that the section of the bill that provides refunds of property tax to residential property owners whose properties became uninhabitable will reduce local property taxes in Fiscal Year 2022-2023 by \$18.3 million. The section of the bill that delays the payment deadlines for property tax payments does not affect revenues.

**B. Private Sector Impact:**

Property owners whose residential properties were rendered uninhabitable by Hurricanes Ian or Nicole will be refunded a portion of 2022 ad valorem taxes. Additionally, those involved in post-disaster recovery, including housing repair or development and beach erosion control construction, will benefit from state expenditures aimed at aiding those efforts.

**C. Government Sector Impact:**

Local governments will be required to refund a certain amount of ad valorem tax revenue, which will reduce overall funds available. Additionally, property appraisers and tax collectors in affected counties and the Department of Revenue may incur costs associated with administering provisions of the bill.

The bill appropriates \$1.5 million from the General Revenue Fund to the DEP to administer related portions of the bill.

The bill appropriates, from the General Revenue Fund:

- \$350 million to the DEM for local match grants related to FEMA Public Assistance grants.
- \$150 million to the FHFC for hurricane housing recovery programs.
- \$100 million to the DEP for beach management and erosion control.
- \$50 million to the DEP for grants to homeowners and condo associations to mitigate coastal beach erosion.
- \$100 million to the DEP for grants to local governments for stormwater and wastewater systems repairs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 161.101, 194.032, 252.37

This bill creates the following sections of the Florida Statutes: 197.3181, 197.3182, 252.71

This bill creates undesignated sections of Florida law.

**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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