

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1B Emergency Response
SPONSOR(S): Giallombardo and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2-B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Appropriations Committee	28 Y, 0 N	Davis	Pridgeon

SUMMARY ANALYSIS

HB 1B provides for emergency relief in the wake of the 2022 hurricane season, in which two 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 weeks later, Hurricane Nicole made landfall on Florida’s east coast causing residential property damage, flooding, and shoreline erosion in coastal communities and exacerbating the impacts of Hurricane Ian.

The bill creates the Local Government Emergency Bridge Loan Program within the Department of Economic Opportunity to provide financial assistance to local governments impacted by Hurricane Ian or Hurricane Nicole. The bill appropriates \$50 million in nonrecurring funds from the General Revenue Fund for the program.

The bill transfers \$650 million from the General Revenue Fund to the Emergency Preparedness and Response Fund to be used for responding to a declared state of emergency.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

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.¹ 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.² The storm's combination of size, severe winds, heavy rainfall, and extraordinary storm surge caused damage and property loss across the State, especially in southwest Florida. After landfall, more than 2.6 million utility customers were without power.³ 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, cutting off access to those islands by land.

According to the National Oceanic and Atmospheric Administration, since 1980, five hurricanes have produced more than \$20 billion in damages to 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.⁴

Days prior to landfall, on September 23, 2022, Governor DeSantis issued Executive Order 22-218,⁵ declaring a state of emergency for several counties due to the dangers of Tropical Depression Nine, which would become Hurricane Ian.⁶ 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.⁷ On November 21, 2022, Governor DeSantis issued Executive Order 22-268 which renewed the state of emergency for 60 days.⁸

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.⁹ The storm increased in 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

¹ 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 Feb. 2, 2023).

² *Id.*

³ NOAA, *Hurricane Ian Special Summary*, available at: <https://www.ncei.noaa.gov/access/monitoring/monthly-report/national/202209/supplemental/page-5> (last visited Feb. 2, 2023).

⁴ *Id.*

⁵ State of Florida Executive Order 22-218, available at: <https://www.flgov.com/wp-content/uploads/2022/09/EO-22-218.pdf> (last visited Feb. 2, 2023).

⁶ *Id.*

⁷ 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 Feb. 2, 2023).

⁸ State of Florida Executive Order 22-268, available at: <https://www.flgov.com/wp-content/uploads/2022/11/EO-22-268.pdf> (last visited Feb. 2, 2023).

⁹ State of Florida Executive Order 22-253, available at: <https://www.flgov.com/wp-content/uploads/2022/11/EO-22-253-1.pdf> (last visited Feb. 2, 2023).

flooding.¹⁰ The impacts of Hurricane Nicole on coastal communities exacerbated the impacts of Hurricane Ian in areas hit by both storms.

Nicole caused significant damage to infrastructure and buildings along the east coast due to storm surge and beach erosion. Portions of scenic Highway A1A required emergency repair caused by the erosion eating away at the highway's shoulder.¹¹ Homes and other residences were washed away by storm surge.¹² Nicole also caused inland flooding from heavy rainfall causing rivers to jump their banks.¹³

On November 8, 2022, President Biden made a declaration of emergency for Hurricane Nicole for Florida,¹⁴ 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. On December 15, 2022, President Biden issued the upgraded declaration.¹⁵

Funding for Emergencies

The Governor is responsible for meeting the dangers presented to this state and its people by emergencies.¹⁶ In the event of an emergency or threat of one, the Governor may declare a state of emergency by executive order or proclamation. The state of emergency continues until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist.¹⁷

Predetermined emergency management plans go into effect when a state of emergency is declared by the Governor. Such plans provide resources necessary to protect and mitigate the effects of a disaster, including the use or distribution of supplies, equipment, and materials.¹⁸ State policy dictates that funds must always be available to meet emergencies.¹⁹

If funds specifically appropriated to state and local agencies for disaster relief or response are insufficient, the Governor may make funds available by transferring and expending moneys from the Emergency Preparedness and Response (EPR) Fund.²⁰ If additional funds are needed, the Governor is authorized to submit a budget amendment to the Legislative Budget Commission (LBC) requesting additional funds be appropriated to the EPR Fund.²¹ The LBC is authorized to convene to transfer unappropriated surplus funds to the EPR Fund as necessary.²²

When the EPR Fund was created in February 2022, the Legislature transferred \$500 million from the General Revenue Fund into the EPR Fund. On October 12, 2022, the LBC approved a budget

¹⁰ 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 Feb. 2, 2023).

¹¹ *Id.*

¹² 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 Feb. 2, 2023).

¹³ 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 Feb. 2, 2023).

¹⁴ 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 Feb. 2, 2023).

¹⁵ FEMA, *President Joseph R. Biden, Jr. Approves Major Disaster Declaration to Help Floridians Recover from Hurricane Nicole*, available at: <https://www.fema.gov/press-release/20221214/president-joseph-r-biden-jr-approves-major-disaster-declaration-help> (last visited Feb. 2, 2023).

¹⁶ Section 252.36(1)(a), F.S.

¹⁷ Section 252.36(2), F.S. A state of emergency may not continue for longer than 60 days unless renewed by the Governor.

¹⁸ Section 252.36(4), F.S.

¹⁹ Section 252.37(1), F.S.

²⁰ Sections 252.37(2)(b) and 252.3711, F.S.

²¹ *Id.*

²² Section 11.90(8), F.S.

amendment to transfer an additional \$360 million from the General Revenue Fund to the EPR Fund for response and recovery efforts associated with Hurricane Ian.²³

Preliminary state agency cost estimates indicate actual and obligated expenditures of over \$1.3 billion, with projected costs of approximately \$2.0 billion for ongoing response to Hurricanes Ian and Nicole. In addition to state funding, emergency project worksheets are being expedited and presented to the Federal Emergency Management Agency for reimbursement. The current cash balance in the EPR Fund is approximately \$420 million.²⁴

Local Government Revenue Impacts

The ad valorem tax, or “property tax,” is an annual tax levied by local governments based on the value of real and tangible personal property as of January 1 of each year.²⁵ The property appraiser annually determines the “just value”²⁶ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”²⁷ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by the following March 31, with discounts granted for early payment.²⁸

In Special Session 2022A, the Legislature passed SB 4-A to provide hurricane and disaster relief, including property tax relief.²⁹ The legislation provided for a partial property tax refund for residential property owners whose real property was destroyed or rendered uninhabitable for at least 30 days by Hurricane Ian or Hurricane Nicole. The partial refund of taxes is based on the number of days the home was uninhabitable, and requires property owners to first pay their property taxes timely and in full. Additionally, the legislation extended the deadlines for payment of property taxes and discount periods for those whose real property was destroyed or rendered uninhabitable by either storm. The Revenue Estimating Conference determined that the refunds of property tax authorized in the legislation will reduce local property tax collections in Fiscal Year 2022-23 by an estimated \$18.3 million.

Florida Small Business Emergency Bridge Loan Program

The Department of Economic Opportunity (DEO) administers the Florida Small Business Emergency Bridge Loan Program to provide short-term, zero-interest loans to “bridge the gap” between the time a disaster impacts a business and when the business has secured longer term recovery funding.³⁰ Examples could include federal or commercial loans, insurance claims, or other resources. Eligible small businesses apply for loans up to \$50,000 through the program.

In response to Hurricane Ian, the Governor announced \$50 million would be available through the program to small businesses impact by the hurricane, with \$10 million specifically dedicated to agricultural producers.³¹

²³ <http://www.leg.state.fl.us/Data/Committees/Joint/JLBC/Actions/101222.pdf> (last visited Feb. 3, 2023).

²⁴ Current cash balance shown on Transparency Florida as of Feb.3, 2023. See www.transparencyflorida.gov.

²⁵ 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.

²⁶ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. See art. VII, s. 4, Fla. Const. 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).

²⁷ Section 192.001(2) and (16), F.S.

²⁸ Sections 197.322 and 197.333, F.S.

²⁹ Ch. 22-272, Laws of Fla.

³⁰ Florida Department of Economic Opportunity (DEO), *Florida Small Business Emergency Bridge Loan Program*, available at <https://deosera.force.com/RebuildFloridaBusinessLoanFund/s/> (last visited Feb. 2, 2023).

³¹ Executive Office of the Governor, *Governor Ron DeSantis Activates the Florida Small Business Emergency Bridge Loan Program, Making \$50 Million Available – At Least \$10 Million of Which Must Go to Assist Agricultural Businesses Impacted by Hurricane Ian*, available at <https://www.flgov.com/2022/10/04/governor-ron-desantis-activates-the-florida-small-business-emergency-bridge-loan-program-making-50-million-available-at-least-10-million-of-which-must-go-to-assist-agricultural-businesses/> (last visited Feb. 2, 2023).

Effect of the Bill

HB 1B creates s. 288.066, F.S., to establish the Local Government Emergency Response Bridge Loan within the Department of Economic Opportunity (DEO) to provide financial assistance to local governments impacted by Hurricane Ian or Hurricane Nicole. The purpose of the loan program is to help these local governments maintain their operations by bridging the gap between the time the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial assistance.

Loans may be issued during the 2022-2023 fiscal year or the 2023-2024 fiscal year. The loans are interest-free with the loan amount determined based upon demonstrated need, and must be paid back within one year unless extended by up to six months by the DEO based on the local government's financial condition.

Eligible local governments must be a county or municipality located in an area designated in the Federal Emergency Management Agency disaster declarations for Hurricane Ian or Hurricane Nicole. Also, the local government must show that it may suffer or has suffered substantial loss of its tax or other revenues as a result of the hurricane and demonstrate a need for financial assistance to enable it to continue to perform its governmental operations.

A local government may only use loan funds to continue local governmental operations or to expand and modify such operations to meet disaster-related needs. The funds may not be used to finance or supplant funding for capital improvements or to repair or restore damaged public facilities or infrastructure. The DEO must coordinate with the Division of Emergency Management to assess whether such loans would affect reimbursement under federal programs for disaster-related expenses. The bill further grants DEO with emergency rulemaking authority to implement the program.

This program expires June 30, 2027. As loans are repaid, the DEO will remit the payments back to the General Revenue Fund and upon expiration of the program, the DEO must return all unencumbered funds and loan payments back to the General Revenue Fund.

The bill appropriates \$50 million in nonrecurring funds from the General Revenue Fund to the DEO to implement the loan program. The funds are available for both the current fiscal year and the 2023-2024 fiscal year.

Finally, the bill transfers the nonrecurring sum of \$650 million from the General Revenue Fund to the Emergency Preparedness and Response Fund to be used for preparing and responding to a declared state of emergency.

The bill takes effect upon becoming a law.

B. SECTION DIRECTORY:

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| Section 1 | Creates s. 288.066, F.S., relating to the Local Government Emergency Bridge Loan Program. |
| Section 2 | Provides emergency rulemaking authority to the Department of Economic Opportunity. |
| Section 3 | Appropriates funds for the Local Government Emergency Bridge Loan Program. |
| Section 4 | Transfers funds to the Emergency Preparedness and Response Fund. |
| Section 5 | Provides that the bill is effective upon becoming a law. |

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appropriates \$50 million in nonrecurring funds from the General Revenue Fund to the DEO to fund the Local Government Emergency Bridge Loan Program.

The bill transfers \$650 million from the General Revenue Fund to the Emergency Preparedness and Response Fund to be used for preparing and responding to a declared state of emergency.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Eligible local governments who demonstrate substantial loss of revenue as a result of the hurricane may secure a loan under the bridge loan program to offset such losses and continue their operations.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Economic Opportunity is granted emergency rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES