

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 2-B

INTRODUCER: Senator Albritton

SUBJECT: Emergency Response

DATE: February 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Nobles</u>	<u>Yeatman</u>	<u>FP</u>	<u>Pre-Meeting</u>
2.	_____	_____	_____	_____

I. Summary:

SB 2-B provides for emergency relief 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 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 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.

II. Present Situation:

Funding for Declared States of Emergencies

The Governor is responsible for meeting the dangers presented to this state and its people by emergencies.¹ 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

¹ Section 252.36(1)(a), F.S.

Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist.²

When a state of emergency is declared by the Governor, predetermined emergency management plans become effective. One piece of the emergency plans is to provide resources necessary to protect and mitigate the effects of a disaster, including the use or distribution of supplies, equipment, and materials.³ The policy of the state is that funds to meet emergencies must always be available.⁴

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 Response and Preparedness (EPR) Fund.⁵ 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. The LBC is authorized to convene to transfer unappropriated surplus funds to the EPR Fund as necessary.⁶

When the EPR Fund was created in 2022, the Legislature transferred \$500 million into the fund. On October 12, 2022, the Legislative Budget Commission approved the transfer of another \$360 million from the General Revenue Fund to the EPR Fund for response and recovery efforts associated with Hurricane Ian.

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.⁷

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.⁸ 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.⁹ The storm's combination of 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.¹⁰ Infrastructure in Southwest Florida was significantly

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

³ Section 252.36(4), F.S.

⁴ Section 252.37(1), F.S.

⁵ *Id.*

⁶ Section 11.90(8), F.S.

⁷ Amount shown on Transparency Florida as of February 3, 2023. See www.transparencyflorida.gov.

⁸ 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. 3, 2023).

⁹ *Id.*

¹⁰ NOAA, *Hurricane Ian Special Summary*, available at: <https://www.ncei.noaa.gov/access/monitoring/monthly-report/national/202209/supplemental/page-5> (last visited Feb. 3, 2023).

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.¹¹

Days prior to landfall, on September 23, 2022, Governor DeSantis issued Executive Order 22-218,¹² declaring a state of emergency for several counties due to the dangers of Tropical Depression Nine, which would become Hurricane Ian.¹³ 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.¹⁴ On November 21, 2022, Governor DeSantis issued Executive Order 22-268 which renewed the state of emergency for 60 days.¹⁵

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.¹⁶ 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.¹⁷ The impacts of Hurricane Nicole on coastal communities exacerbated the impacts that Hurricane Ian had on the same areas.

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.¹⁸ Homes and other

¹¹ *Id.*

¹² 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. 3, 2023).

¹³ *Id.*

¹⁴ 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. 3, 2023).

¹⁵ 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. 3, 2023).

¹⁶ 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. 3, 2023).

¹⁷ 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. 3, 2023).

¹⁸ *Id.*

residences were washed away by the ocean due to sand erosion and storm surge.¹⁹ Nicole also caused inland flooding from heavy rainfall causing rivers to jump their banks.²⁰

On November 8, 2022, President Biden made a declaration of emergency for Hurricane Nicole for Florida,²¹ 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 and on December 15, 2022, President Biden issued the upgraded declaration.²²

Local Government Revenue Impacts

Ad Valorem Tax Due Dates and Discounts

Property taxes are, under normal circumstances, due and payable on November 1 of each year and delinquent on April 1 following the year in which they are assessed.²³ 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 month of January; and
- 1 percent in the month of February.²⁴

Extension of 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.²⁵ The affected ad valorem taxes and non-ad valorem assessments levied in 2022 were due and payable on January 1, 2023, and will become delinquent on June 1, 2023. 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

¹⁹ 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. 3, 2023).

²⁰ 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. 3, 2023).

²¹ 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. 3, 2023).

²² FEMA, *President Joseph R. Biden, Jr. Approves Major Disaster Declaration to Help Floridians Recover from Hurricane Nicole*, FEMA, available at <https://www.fema.gov/press-release/20221214/president-joseph-r-biden-jr-approves-major-disaster-declaration-help> (last visited Feb. 3, 2023).

²³ Section 197.333, F.S.

²⁴ Section 197.162, F.S.

²⁵ State of Florida Executive Order 22-242.

- 1 percent in the month of April 2023.

In Special Session 2022A, the Legislature passed ch. 2022-272, Laws of Florida, which acted as a codification of Executive Order 22-242, and also extended the provisions to completely destroyed or otherwise uninhabitable properties due to impacts of Hurricane Nicole.

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.²⁶

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.

The relief created by the provision is available to property owners solely as a refund of taxes paid. This law was effective January 1, 2023, and will first apply to the 2023 tax rolls.

Because the law was not in effect for Hurricanes Ian or Nicole, the Legislature in Special Session 2022A created s. 197.3181, F.S., to provide for a prorated refund of ad valorem taxes for only those properties rendered uninhabitable due to Hurricane Ian or Hurricane Nicole.

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.

²⁶ Section 197.319(1)(a), F.S.

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.

Federal Community Disaster Loan Program

The FEMA administers the Community Disaster Loan Program to provide funding for local governments impacted by a disaster to operate their essential community services after a substantial revenue loss.²⁷ To be eligible for a loan the local government must demonstrate a substantial loss (greater than 5 percent) of tax and other revenues for the current or succeeding fiscal year as a result of a major disaster.²⁸ Loan amounts are based on the cumulative estimated revenue loss for the fiscal year of the disaster and the subsequent three fiscal years or 25 percent of the approved operating budget of the local government for the fiscal year in which the disaster occurred, with a cap of \$5 million. The loans may only be used for essential services, including police and fire protection, revenue collection, hazard insurance, trash collection, and public facilities maintenance.²⁹ The term of the loans are 5 years and can be extended to up to 10 years. The interest rates are determined by the Secretary of the Treasury.³⁰

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.³¹

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.³²

III. Effect of Proposed Changes:

SB 2-B 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 assist these local governments in maintaining operations by bridging the gap

²⁷ FEMA, *Community Disaster Loan Program*, available at <https://www.fema.gov/assistance/public/community-disaster-loan> (last visited Feb. 3, 2023).

²⁸ FEMA, *Fact Sheet: What is the Community Disaster Loan (CDL) Program?*, available at <https://www.fema.gov/assistance/public/community-disaster-loan> (last visited Feb. 3, 2023).

²⁹ *Id.*

³⁰ *Id.*

³¹ Florida Department of Economic Opportunity (DEO), *Florida Small Business Emergency Bridge Loan Program*, available at <https://deosera.force.com/RebuildFloridaBusinessLoanFund/s/> (last visited Feb. 3, 2023).

³² 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. 3, 2023)/

between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial assistance.

The loans may be issued during the 2022-2023 fiscal year or the 2023-2024 fiscal year, subject to appropriation. The loans are interest-free with the loan amount determined based upon demonstrated need. The loans 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.

To be eligible a local government 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 grants DEO with rulemaking authority to implement the program and grants emergency rulemaking authority.

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, 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 the current fiscal year and are authorized to be carried forward for the 2023-2024 fiscal year.

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.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees, and thus the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill appropriates \$50 million 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.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 288.066 of the Florida Statutes.

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.

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