

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7007 PCB EDTS 15-01 Emergency Management

SPONSOR(S): Economic Development & Tourism Subcommittee, Eagle

TIED BILLS: **IDEN./SIM. BILLS:** SB 620

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| Orig. Comm.: Economic Development & Tourism Subcommittee | 9 Y, 0 N | Lukis | Duncan |
| 1) Economic Affairs Committee | 16 Y, 0 N | Lukis | Creamer |

SUMMARY ANALYSIS

The Emergency Management Assistance Compact (EMAC) is an agreement between all 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and all other United States territorial possessions to provide each other mutual assistance in managing an emergency or disaster declared by the governor of the affected state. EMAC directs all party states that receive aid from another party state pursuant to EMAC to reimburse the aiding party state for its expenses.

The Division of Emergency Management (DEM) has received numerous requests through EMAC to assist states responding to manmade or natural disasters. Despite EMAC's reimbursement requirements, current law does not permit state employees traveling on an EMAC mission to receive travel reimbursement based on the amount agreed upon by the requesting state and DEM. Thus, current law may prevent a state employee from being fully reimbursed as certain EMAC missions take place in states where expenses exceed authorized reimbursement levels.

The bill provides that the per diem and travel expense reimbursement provisions under s. 112.061, F.S., do not apply to state employees traveling on an EMAC mission when such expenses are reimbursed pursuant to an amount agreed upon in an interstate mutual aid request for assistance.

The bill has no fiscal impact on state or local government revenues.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Division of Emergency Management

Florida's Division of Emergency Management (DEM) administers programs to rapidly apply all available aid to communities stricken by emergency.¹ In doing so, DEM coordinates efforts with and among the federal government, other state agencies, local governments, school boards, and private agencies that have a role in emergency management.²

The State Emergency Act (Act)³ establishes DEM's powers and responsibilities, which include the following:

- preparation of a comprehensive statewide emergency management plan;
- adopting standards and requirements for county emergency management plans;
- assisting political subdivisions in preparing and maintaining emergency management plans;
- ascertaining the requirements for equipment and supplies for use in an emergency;
- instituting statewide public awareness programs;
- coordinating federal, state, and local emergency management activities in advance of an emergency; and
- using and employing the property, services, and resources within the state in accordance with the Act.⁴

DEM is administratively housed within the Executive Office of the Governor, and the Governor appoints DEM's Director, who is responsible for all matters under DEM's jurisdiction.⁵

Emergency Management Assistance Compact

Although DEM's primary role is to assist Florida communities, DEM also coordinates Florida's emergency assistance to other states. Accordingly, DEM manages Florida's participation in the Emergency Management Assistance Compact (EMAC).⁶

EMAC is an agreement between all 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and all other United States territorial possessions to provide each other mutual assistance in managing an emergency or disaster declared by the governor of the affected state.⁷ The emergency may arise from a natural or manmade disaster, technological hazard, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.⁸

The United States Congress passed a joint resolution that granted consent for the creation of EMAC in 1996.⁹ The Florida Legislature authorized Florida's participation in EMAC the same year.¹⁰

¹ Section 14.2016, F.S.

² Section 252.35(1), F.S.

³ Sections 252.31-252.60, F.S.

⁴ Section 252.35, F.S.

⁵ Section 14.2016, F.S.

⁶ See ss. 252.921-252.933, F.S.

⁷ Section 252.922(1), F.S.

⁸ Section 252.922(2), F.S.

⁹ Public Law 104-321 – Oct. 19, 1996.

¹⁰ Chapter 96-244, L.O.F.

Party State Cooperation and Communication

In tune with its purpose, EMAC directs its party states to carry out the following tasks:

- review individual state hazards analyses and determine those potential emergencies from which the party states might jointly suffer;
- review party states' individual emergency plans and identify each state's mechanism for interstate management and provision of assistance;
- develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;
- assist in warning communities adjacent to or crossing the state boundaries;
- protect and assure uninterrupted delivery of services, resources and supplies;
- inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and
- provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.¹¹

The authorized representative of a party state may request the assistance of another party state by contacting the authorized representative of that state. Requests for assistance must provide the following information:

- a description of the emergency service for which the support is needed;
- the amount and type of personnel, equipment, materials, and supplies needed, and a reasonable estimate of the length of time the resources will be needed; and
- the specific place and time where the assistance is needed and a point of contact at that location.¹²

The EMAC Process¹³

1. The Governor of the affected state declares a state of emergency due to a natural or man-made disaster/emergency.
2. The affected state assesses resource needs and identifies shortfalls for which assistance will be requested.
3. The affected state requests resources from EMAC member states through the state emergency management agencies.
4. State emergency management personnel and local resource providers work together to identify available resources and estimated mission costs.
5. The requesting and assisting states execute the EMAC Request for Assistance Form, which is called the REQ-A.¹⁴
6. Personnel deploying under EMAC are given a Mission Order Authorization Form, which outlines the mission, helpful information, and guidance.
7. The assisting states send resources to the requesting state.
8. When the mission is completed, resources return to the home state.

¹¹ Section 252.924(1), F.S.

¹² Section 252.924(2), F.S.

¹³ Emergency Management Assistance Compact, Training & Education, Education Publications, Being Deployed Under EMAC? What You Need to Know, July 2013, p. 3, 2013 EMAC Deployment Brochure – July 2013.pdf.

¹⁴ The REQ-A is the official form used by states to request, offer, and accept assistance through EMAC. It is also the basis for reimbursement. The Emergency Management Assistance Compact, EMAC Overview 9-2011.pptx, Library Documents Docs ID #2646, Slide 35, available at http://www.nemaweb.org/index.php?option=com_pollybrowser&Itemid=201.

9. Deployed personnel provide receipts/records and work with the home state to develop and review reimbursement packages.
10. The assisting state sends a reimbursement package to the requesting state.
11. The requesting state reimburses the assisting state.

EMAC Reimbursement

Any party state that renders aid to another party state pursuant to EMAC must be reimbursed by the party state that receives such aid. Specifically, the receiving state is required to reimburse the aiding state for “any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the cost incurred in connection with such requests.”¹⁵ However, an aiding party state may assume in whole or in part the costs of the aid it provides and may donate or loan equipment or services as it wishes.¹⁶ In addition, any two or more party states are authorized to enter into supplementary agreements establishing a particular allocation of costs among such states.¹⁷

Florida’s Public Employee Travel Reimbursement Law

The Legislature has standardized travel reimbursement rates, procedures, and limitations, with certain exceptions and exemptions, applicable to all public officers, employees, and authorized persons whose travel is authorized and paid for by a public agency.¹⁸ All travel must be authorized by the head of the agency, or his or her designated representative, from whose funds the travel is paid. In addition, travel expenses should be limited to those necessarily incurred in pursuance of a public purpose.¹⁹ State law establishes the following three categories of travel:²⁰

- Class A Travel, which includes continuous travel of 24 hours or more away from official headquarters;
- Class B Travel, which includes continuous travel of less than 24 hours that involves overnight absence from official headquarters; and
- Class C Travel, which includes travel for short or day trips where the traveler is not away from his or her official headquarters overnight.

The state is required to allow for subsistence for public employees engaged in Class A or Class B Travel and provides the following two travel reimbursement options:²¹

- \$80 per diem; or
- if actual expenses exceed \$80, the state will pay a maximum of \$36 (\$6 for breakfast, \$11 for lunch, and \$19 for dinner) in addition to the actual expenses for lodging at a single-occupancy rate supported by paid bills.

DEM Deployment – EMAC

DEM has received numerous requests through EMAC to assist other states. Despite EMAC’s reimbursement requirements, Florida’s per diem and travel reimbursement law for public employees controls the specific reimbursement procedures and guidelines for DEM staff deployed on an EMAC mission.²² Current law does not permit state employees traveling on an EMAC mission to receive travel reimbursement based on the amount agreed upon by the requesting state and DEM.²³ Consequently,

¹⁵ Section 252.929, F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 112.061(1), F.S.

¹⁹ Section 112.061(3), F.S.

²⁰ Section 112.061(2)(k)-(m), F.S.

²¹ Section 112.061(6), F.S.

²² *See s. 112.061, F.S.*

²³ *Id.*

at times, current law may prevent a state employee from being fully reimbursed as certain EMAC missions take place in states where expenses exceed authorized reimbursement levels.

Below is a list of missions in which DEM staff was deployed to provide assistance under EMAC from 2010-2014.²⁴

| MISSION | NUMBER DEPLOYED | LOCATION | EVENT |
|---|-----------------|-------------|-------------------------|
| 2014 | | | |
| Deputy Operations Chief | 1 | Hawaii | Hurricanes Iselle/Julio |
| 2013 | | | |
| Hazard mitigation grant experts | 2 | Colorado | Flood |
| Public information specialist to assist with operations JFO | 2 | Alaska | Flood |
| State Volunteer Agency Liaison | 1 | Alaska | Flood |
| 2012 | | | |
| Law enforcement strike teams | 28 | New Jersey | Sandy |
| Region IV Support Team to assist in staffing EOC | 10 | New York | Sandy |
| Donations Management Coordinator | 1 | New Jersey | Sandy |
| Personnel able to support NYC EOC | 14 | New York | Sandy |
| Donations Coordinator | 1 | New York | Sandy |
| Governor's Office of Volunteerism | 1 | New Jersey | Sandy |
| Finance personnel to assist NYC EOC | 1 | New York | Sandy |
| Field operations (door to door) | 2 | New York | Sandy |
| Request for assistance with mass care/feeding | 2 | Maryland | Sandy |
| 2011 | | | |
| Need for mitigation officer | 2 | Vermont | Irene |
| Request ESF 6 support | 1 | New Jersey | Irene |
| Donations Manager | 1 | New York | Tropical Storm Lee |
| Request EOC support team | 17 | New York | Irene |
| Mitigation personnel | 3 | Tennessee | Flood |
| Cadaver Dog Team | 7 | Alabama | Tornados |
| Communication teams | 2 | Alabama | Tornados |
| Volunteer donations coordinator | 1 | Missouri | Tornados |
| Volunteer donations coordinator | 1 | Alabama | Tornados |
| PIO Request | 2 | Alabama | Tornados |
| Individual Assistance Personnel | 5 | Mississippi | Severe weather |
| 2010 | | | |
| Air Craft Crew Chiefs for oil spill | 15 | Louisiana | Deep Water Horizon |
| National Guard | 20 | Louisiana | Deep Water Horizon |

Effect of Proposed Changes

The bill provides that the per diem and travel expense reimbursement provisions under s. 112.061, F.S., do not apply to state employees traveling on an EMAC mission when such expenses are reimbursed pursuant to an amount agreed upon in an interstate mutual aid request for assistance.

²⁴ Florida Division of Emergency Management, Email to House Economic Development & Tourism Subcommittee (EDTS) staff, Dec. 10, 2013; updated February 5, 2014 email to EDTS staff. Emails on file.

B. SECTION DIRECTORY:

- Section 1: Amends s. 252.921, F.S., relating to the short title of the Emergency Management Assistance Compact (EMAC), to identify the statutory sections that govern EMAC.
- Section 2: Creates s. 252.9335, F.S., relating to expense reimbursement under EMAC, to provide that expense reimbursement provisions under s. 112.061, F.S., do not apply to an employee traveling under EMAC when such expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.
- Section 3: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
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:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES