

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SB 1288

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Richter

SUBJECT: Emergency Management

DATE: January 27, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	Fav/CS
2.	_____	_____	CA	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1288 defines the term “activate” to mean the execution and implementation of the necessary plans and activities required to mitigate, respond to, or recover from an emergency or disaster pursuant to ch. 252, F.S., and the State Comprehensive Emergency Management Plan.

The bill is effective upon becoming law.

II. Present Situation:

Florida Division of Emergency Management

Florida’s Division of Emergency Management (FDEM) administers programs to rapidly apply all available aid to impacted communities stricken by emergency.¹ The FDEM is responsible for maintaining a comprehensive statewide program of emergency management to ensure that Florida is prepared to respond to emergencies, recover from them, and mitigate against their impacts. In doing so, the FDEM 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

¹ Section 14.2016, F.S.

² Section 252.35(1), F.S.

The State Comprehensive Emergency Management Plan

The FDEM is required by s. 252.35, F.S., to prepare a State Comprehensive Emergency Management Plan (CEMP) to be integrated into and coordinated with the emergency management plans and programs of the federal government. The CEMP must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters.³ The CEMP designates the State Emergency Operations Center (SEOC) as the permanent location in which the State Emergency Response Team (SERT) carries out the coordination and completion of response and recovery activities.⁴ The SERT is comprised of FDEM staff, other state agencies, and private volunteer organizations and non-governmental agencies and serves as the primary operational mechanism through which state assistance to local governments is managed. Members of the SERT are organized into sections, branches, and Emergency Support Functions (ESF).⁵

The CEMP states that the SEOC will be activated at a level necessary to effectively monitor or respond to threats or emergency situations. The SEOC operates 24 hours a day, 7 days a week, but the level of staffing varies with the activation level.⁶ There are three levels of activation:

- Level 3: Normal conditions.
- Level 2: The SERT is activated, but may not require activation of every section, branch, or ESF.
- Level 1: The SERT has activated all sections, branches, and ESFs to conduct response and recovery operations.⁷

The SEOC maintains at a Level 3 activation at all times.

Emergency Management Powers of the Governor

The Governor is responsible for meeting the dangers presented to this state and its people by emergencies.⁸ In the event of an emergency beyond local control, the Governor, or his or her designee, may assume direct operational control over all or any part of the emergency management functions within this state.⁹ As part of the Governor's power, he or she may by executive order or proclamation declare a state of emergency. A state of emergency has the force and effect of law and assists in the management of an emergency by activating the emergency mitigation, response, and recovery aspects of the state, local, and interjurisdictional emergency management plans applicable to the political subdivision or area in question.¹⁰ A state of emergency may be declared if the Governor finds that an emergency has occurred or is imminent.

³ Section 252.35(2)(a), F.S.

⁴ Florida Division of Emergency Management, *Comprehensive Emergency Management Plan* (Feb. 2014), available at <http://floridadisaster.org/cemp.htm> (last visited Jan. 22, 2016).

⁵ *Id.* at 5.

⁶ *Id.* at 30.

⁷ *Id.* at 31.

⁸ Section 252.36(1)(a), F.S.

⁹ *Id.*

¹⁰ Section 252.36, F.S.

The Federal Declaration Process

The Robert T. Stafford Disaster Relief and Emergency Assistance Act¹¹ states in part that all requests for an emergency or major disaster declaration by the President shall be made by the Governor of the affected state.¹²

The Governor must provide to the Federal Emergency Management Agency (FEMA) in its request for an emergency declaration the following information:

- Findings that the situation is of such severity and magnitude that effective response is beyond the capability of the state and the affected local government(s) and that federal emergency assistance is needed to save lives and to protect property, public health and safety, or to lessen or avert the threat of a disaster;
- Confirmation that the Governor has taken appropriate action under state law and directed the execution of the state emergency plan;
- A description of the state and local government efforts and resources utilized to alleviate the emergency;
- A description of other federal agency efforts and resources utilized in response to the emergency; and
- A description of the type and extent of additional federal assistance required.¹³

The Governor must provide to FEMA in its request for a major disaster declaration the following information:

- Findings that the situation is of such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments and that federal assistance is necessary to supplement the efforts and available resources of the state, local governments, disaster relief organizations, and compensation by insurance for disaster-related losses;
- Confirmation that the Governor has taken appropriate action under state law and directed the execution of the state emergency plan;
- An estimate of the amount and severity of damages and losses stating the impact of the disaster on the public and private sector;
- A description of the state and local government efforts and resources utilized to alleviate the disaster;
- Preliminary assessments of the types and amount of Stafford Act assistance needed; and
- Certification by the Governor that state and local governments will comply with all applicable cost sharing requirements of the Stafford Act.¹⁴

Upon receipt of the request, FEMA will evaluate the information and provide a recommendation to the President on whether to issue an emergency declaration, major disaster declaration, or deny the state's request. Should a request from the state be denied or modified the Governor has one opportunity and 30 days to appeal the President's decision.¹⁵

¹¹ 42 U.S.C. 5121 et seq.

¹² Federal Emergency Management Agency, *Declaration Process Fact Sheet* (Nov. 13, 2015), available at <https://www.fema.gov/declaration-process-fact-sheet> (last visited Jan. 22, 2016).

¹³ 44 C.F.R. s. 206.35.

¹⁴ 44 C.F.R. s. 206.36.

¹⁵ 44 C.F.R. 206.40

According to the FDEM, FEMA has in the past also considered the activation level of the SEOC in its recommendation to the President in addition to the criteria listed above. During the 2013 July Panhandle Flooding and 2015 Central Florida Flooding events FEMA claimed that there was insufficient evidence to prove that the SEOC remains activated at all times, despite maintaining a Level 3 activation. FEMA denied Florida's request for a major disaster declaration for both of the flooding events in 2013 and 2015. However, Florida later won an appeal to FEMA in 2013 and was granted a major disaster declaration for the 2013 Panhandle Flooding event.¹⁶

III. Effect of Proposed Changes:

CS/SB 1288 amends s. 252.34, F.S., to define the term "activate" to mean the execution and implementation of the necessary plans and activities required to mitigate, respond to, or recover from an emergency or disaster pursuant to ch. 252, F.S., and the State Comprehensive Emergency Management Plan.

The bill also updates cross-references in ss. 163.360, 474.2125, and 627.659, F.S., to conform to the bill.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

¹⁶ Senate Military and Veterans Affairs, Space, and Domestic Security Committee staff telephone conversation with Julie Roberts, External Affairs Director, Florida Division of Emergency Management (Jan. 22, 2016).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 252.34, 163.360, 474.2125, 627.659.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Military and Veterans Affairs, Space, and Domestic Security on January 26, 2016:

The CS modifies the definition of the term “activate” to clarify that a state of emergency or disaster declaration is not required in order to execute the state’s emergency plans.

B. Amendments:

None.