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 Infrastructure and Security

BILL: CS/SB 502

INTRODUCER: Infrastructure and Security Committee, Senator Montford and others

SUBJECT: Emergency Mitigation and Response

DATE: February 11, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	**Fav/CS**
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 502 is a bill relating to Emergency Mitigation and Response, the CS:

- Creates a Hurricane Michael Recovery Task Force to review local, state and federal activities related to disaster response, recovery and mitigation and to make recommendations regarding additional assistance needs;
- Requires the Division of Emergency Management (DEM) to conduct an after-action report on shelter operations during Hurricane Michael;
- Requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate the DEM reimbursement process with respect to requests for reimbursement under federal disaster programs;
- Creates the Hurricane Housing Recovery Program within the Florida Housing Finance Corporation (FHFC) to respond to housing needs after hurricanes; and
- Creates the Public Facilities Hurricane Restoration Cash Flow Loan Program to allow local governments and school boards to apply for a cash flow loan to repair or restore damaged facilities.

The CS has a nonrecurring fiscal impact of $585,000 from the General Revenue Fund.

The provisions of the CS take effect upon becoming law.

II. Present Situation:

Task Force Requirements under Section 20.03, Florida Statutes

Section 20.03(8), F.S., defines "task force" to mean an "advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem." This provision specifies that the existence of the task force terminates upon the completion of its assignment.

Statewide Public Emergency Shelters

Sections 1013.372(2) and 252.385(2)(b), F.S., requires the DEM to prepare a Statewide Emergency Shelter Plan[1] (the Plan). The Plan is a guide for local emergency planning and provides advisory assistance to school districts contemplating construction of educational facilities and the need to provide public shelter space within those facilities. The Plan is submitted to the Governor and Cabinet for approval by January 31 of each even-numbered year and must:

- Identify the general location and square footage of existing general population (GP) and special needs shelter (SpNS) space, by Regional Planning Council (RPC) regions;
- Identify the general location and square footage of needed shelters by RPC regions for the next five years;
- Provide information on the availability of shelters that accept pets;
- Identify the types of facilities which should be constructed to comply with the public shelter design criteria; and
- Recommend an appropriate and available source of funding for the additional cost of constructing emergency shelters within those public facilities.

With publication of the 2006 Plan, the DEM began monitoring the status of the statewide inventory of SpNS. Historically, SpNS had been included in total population hurricane evacuation shelter demand estimates and hurricane evacuation shelter capacities. Given the findings from the 2004 hurricane season where about half of the designated SpNS were located in facilities that did not meet the same minimum hurricane safety criteria as GP shelters, the DEM was asked to separate the two shelter types and monitor progress towards improving SpNS hurricane safety, client capacity and provision of standby electric power supported air-conditioning.[2] With the exception of Region 10 (South Florida), all other regions in Florida have a deficit status for SpNS space based on 2018 and 2023 demand estimates.[3]

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[1] Division of Emergency Management, *2018 Statewide Emergency Shelter Plan*, https://www.floridadisaster.org/dem/response/infrastructure/statewide-emergency-shelter-plan/ (last visited February 5, 2020).

[2] *Id.* at i.

[3] *Id.* at Figure 2-2.

Community Development Block Grant – Disaster Recovery Program (CDBG-DR)

"When the President declares a major disaster, Congress may appropriate funds to the U.S. Department of Housing and Urban Development (HUD) when there are significant unmet needs for long-term recovery."[4] The appropriation is limited to providing the assistance in the most impacted and distressed areas. "Each CDBG-DR award/allocation method is published in a Federal Register Notice, which also contains information on:

- Eligible Recovery Activities;
- Program Requirements, including distribution of funds to be spent in low and moderate income communities; and
- Appropriation Specific Waivers and Alternative Requirements."[5]

Traditionally CDBG-DR grants support a variety of disaster recovery activities including housing redevelopment and rebuilding, business assistance, economic revitalization, and infrastructure repair.

Once awarded funds, the state develops an "action plan" of recovery efforts to address the impacts of the disaster; the initial action plan also includes evaluation of "unmet needs" for which additional funding could be provided.[6] The action plan must include a citizen participation plan which describes how the public will be informed and engaged throughout the grant's lifecycle.[7] Funds must be used within six years of the executed agreements between the HUD and the Department of Economic Opportunity (DEO).

In Florida, the DEO formulates the use of funds by taking comment from the public and local communities to develop the plan. The needs of the impacted communities and the limitations in the Federal Register notice will set the action plan for use of the funds.

2016 Hurricanes Hermine and Matthew[8]

In January 2017, the DEO was awarded $58.6 million in CBGB-DR funds by the HUD to address damages from Hurricanes Hermine and Matthew. In August 2017, HUD awarded an additional $59.3 million to address additional unmet needs remaining from the hurricanes. The total award for CDBG-DR for the 2016 hurricanes is $117.9 million. The DEO's action plan for all funds was approved June 1, 2018 (original execution was June 20, 2017).

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[4] U.S. Department of Housing and Urban Development, *Fact Sheet: Community Development Block Grant Disaster Recovery (CDBG-DR*), https://www.hudexchange.info/resources/documents/CDBG-DR-Fact-Sheet.pdf; *see also* HUD, *CDBG-DR Overview Presentation*, https://www.hudexchange.info/resources/documents/CDBG-Disaster-Recovery-Overview.pdf (last visited February 5, 2020). For a comparison of the traditional CDBG program and the DR program, see HUD, *CDBG and CDBG-DR: A Comparison*, https://www.hudexchange.info/resources/documents/CDBG-and-CDBG-DR-Comparison.pdf (last visited February 5, 2020).

[5] HUD, *Fact Sheet*.

[6] "Unmet needs" are the recovery needs of the impacted communities that remain or are "unmet" after the disaster or the initial action plan is developed.

[7] HUD, *Fact Sheet*.

[8] DEO, *Community Development Block Grant – Disaster Recovery Program*, http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative (last visited February 5, 2020).

2017 Hurricane Irma[9]

In September 2017, the DEO was awarded $616 million in CDBG-DR grants to address damage from Hurricane Irma. In April 2018, HUD awarded an additional $157,676,000 to address additional unmet needs remaining from Hurricane Irma. The total award for CDBG-DR for the 2017 hurricane is $773 million. The DEO's action plan for all funds was approved in March 2019 (original execution was in June 2018).

Congress appropriated and the HUD also awarded an additional $634 million for "mitigation" in February 2018; however, no Federal Register notice has been issued for these funds at this time.[10]

2018 Hurricane Michael

At this time, Congress has not appropriated any CDBG-DR funds related to Hurricane Michael. There have been bills filed and heard in Congress, but none have passed yet.[11]

Affordable Housing

The two primary state housing assistance programs are the State Housing Initiatives Partnership (SHIP)[12] and the State Apartment Incentive Loan (SAIL)[13] programs. The SHIP program provides funds to eligible local governments, allocated using a population-based formula, to address local housing needs as adopted in the Local Housing Assistance Plan. Eligible local government entities must develop and adopt local housing assistance plans that include, but are not limited to, strategies and incentives for the construction, rehabilitation, repair, or financing of affordable housing production.[14] The SAIL program provides low interest loans on a competitive basis as gap financing for the construction or substantial rehabilitation of multifamily affordable housing developments.[15] This funding often serves to bridge the gap between the primary financing and the total cost of the development. SAIL program funds are available to individuals, public entities, and not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very-low-income individuals and families.[16]

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[9] *Id*.
[10] HUD, *HUD Awards $28 Billion in CDBG-DR Funds*, April 11, 2018, https://www.hudexchange.info/news/hud-awards-28-billion-in-cdbg-dr-funds/ (last visited February 5, 2020).
[11] *See* H.R. 268 – Supplemental Appropriations Act, 2019 (116th Congress); S. 811 – Additional Supplemental Appropriations for Border Security and Disaster Relief, 2019 (116th Congress); and H.R. 2157 (116th Congress – Supplemental Appropriations Act, 2019.
[12] Sections 420.907-9079, F.S.
[13] Section 420.5087, F.S.
[14] Section 420.9071(14), (15), & (16), F.S. These local housing plans must also align with the requirements for housing under the Local Government Comprehensive Planning and Land Development Regulation Act of 1985. Chapter 163, Part II, F.S.
[15] Section 420.5087, F.S.
[16] Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at: https://www.floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan (last visited February 5, 2020).

Housing Hurricane Recovery Programs

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). 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. With those resources, and an additional $93 million appropriation in 2006 for hurricane rental funding, the FHFC states that it assisted over 10,000 families with the HHRP and created over 1,600 units with the RRLP.[17] These same programs were utilized again following the 2018 Hurricane Season for recovery needs in the Panhandle as a result of Hurricane Michael.[18]

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.[19]

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.

Budget Stabilization Fund

Budget stabilization funds, also known as rainy day funds, "allow states to set aside surplus revenue for times of unexpected revenue shortfall or budget deficit." The fund is a tool to mitigate revenue volatility.[20] Florida's fund consists of five percent of net revenue collections for the General Revenue Fund for the last completed fiscal year, and the principal balance cannot exceed ten percent of the net revenue collections for the General Revenue Fund for the last completed fiscal year.[21] Any expenditure from the fund must be repaid pursuant to a restoration schedule that provides for making five equal annual transfers from the General Revenue Fund, beginning the third fiscal year following the year in which the expenditure was made or a restoration schedule as provided by the Legislature by law.

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[17] Florida Housing Finance Corporation, *Bill Analysis for SB 1328 (2018)*, p. 3, January 10, 2018. Chapter 2006-69, L.O.F.

[18] Florida Housing Finance Corporation, *Bill Analysis for SB 502 (2020)*, p. 2, November 6, 2019.

[19] Florida Housing Finance Corporation, Hurricane Housing Work Group, *Recommendations to Assist in Florida's Long Term Housing Recovery Efforts*, February 2005, http://elderaffairs.state.fl.us/doea/notices/feb05/HHWG%20Report%20final.pdf (last visited February 5, 2020).

[20] Tax Policy Center (Urban Institute and Brookings Institution), *Budget Stabilization Funds – How States Save for a Rainy Day*, November 28, 2017, https://www.taxpolicycenter.org/publications/budget-stabilization-funds/full (last visited February 5, 2020).

[21] Section 215.32(2)(c), F.S.

III. Effect of Proposed Changes:

Hurricane Michael Recovery Task Force (Section 1)

The CS creates the Hurricane Michael Recovery Task Force, a task force as defined in s. 20.03, F.S., established adjunct to the DEM to make recommendations to the Legislature regarding additional assistance needed in the response to the recovery from, and the mitigation of the effects of, Hurricane Michael in the areas designated in the federal disaster declaration DR-4399.[22] The task force must review the local, state, and federal activities conducted and the resources provided in such areas, the effectiveness of such efforts, and any additional assistance necessary.

The task force must consist of the following seven members:

- One member representing the business community, who will serve as chair, appointed by the Governor;
- One member representing agricultural interests, appointed by the commissioner of the Department of Agriculture and Consumer Services;
- One member representing the fishing industry, appointed by the Fish and Wildlife Conservation Commission;
- One member representing emergency response, appointed by the director of the DEM;
- One member representing housing interests, appointed by the executive director of the DEO;
- One public school superintendent representing education interests, appointed by the Commissioner of Education; and
- One county commissioner representing local government interests, appointed by the Governor.

Members will serve at the pleasure of their appointing official. Any vacancy must be filled in the same manner as the original appointment. A member of the Legislature or a registered lobbyist may not be appointed to the task force. Members will serve without compensation, but are entitled to reimbursement of travel and per diem expenses pursuant to s. 112.061, F.S., in the performance of their duties and responsibilities under this section.

The task force will report its findings and make specific recommendations for further response, recovery, and mitigation to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2020.

The task force is dissolved not later than May 15, 2021.

Hurricane Michael After Action Report (Section 2)

The CS directs the DEM to examine the latest available Statewide Emergency Shelter Plan prepared pursuant to ss. 252.385 and 1013.372, F.S., to determine, based on the number of people who evacuated during Hurricane Michael, whether there is sufficient capacity of GP

[22] Designated Counties: Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Leon, Liberty, Taylor, Wakulla, and Washington.

hurricane evacuation shelter space and of special needs hurricane evacuation shelter space in the applicable RPC regions.

The report must include basic information for each shelter activated during Hurricane Michael, including:

- Shelter type (GP, special needs, or pet friendly);
- Name;
- Address; and
- Maximum occupant capacity.

Additionally, the report must provide functional data for each shelter, including:

- Number of persons served at each shelter throughout the event;
- Timeline for opening and closing each shelter; and
- Whether each shelter had sufficient:
  - Staff;
  - Security;
  - Transportation;
  - Equipment;
  - Lavatories;
  - Sanitation;
  - Feeding capabilities;
  - Capacity; and
  - Standby or emergency power.

The report also must identify any unmet needs at each shelter and must indicate whether each shelter met or exceeded the American Red Cross Standards for Hurricane Evacuation Shelter Selection (ARC 4496),[23] which address risks associated with:

- Surge inundation;
- Rainfall flooding;
- High winds; and
- Hazardous materials.

The report must also identify any shelter not activated for Hurricane Michael and the basis for the determination not to activate it, such as the inability of the shelter to withstand a certain level of hurricane impact.

The report must be completed and presented to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2020.

The CS also appropriates nonrecurring funds in the sum of $85,000 from the General Revenue Fund for the 2020-2021 fiscal year to the DEM to prepare an after-action report on the shelter operations that took place during Hurricane Michael.

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[23] Available at the Florida Division of Emergency Management website at https://portal.floridadisaster.org/shelters/External/Current/2018%20SRR/Appendices/Appendix%20C.pdf (last visited February 5, 2020).

OPPAGA Evaluation of DEM Reimbursement Process (Section 3)

The CS appropriates nonrecurring funds in the sum of $500,000 from the General Revenue Fund for the 2020-2021 fiscal year to the OPPAGA, to contract with a third party for the evaluation of the reimbursement process of the DEM with respect to requests for reimbursement under federal disaster programs. At a minimum, the study must make recommendations for process improvements or changes that:

- Increase transparency for entities seeking reimbursement;
- Create efficiency in processing claims for reimbursement; and
- Reduce the time between the impact of a storm and the ultimate reimbursement from the federal government.

The report must be completed and submitted to the President of the Senate and Speaker of the House of Representatives by January 30, 2021.

Hurricane Housing Recovery Program (Section 4)

The CS creates s, 420.57, F.S., subject to the appropriation of funds by the Legislature for that purpose, the Hurricane Housing Recovery Program is created, to provide funds to local governments for their affordable housing recovery efforts, similar to the State Housing Initiatives Partnership Program as set forth in ss. 420.907-420.9079, F.S. The FHFC will administer the program, which is subject to appropriation of funds. Notwithstanding ss. 420.9072 and 420.9073, F.S., the FHFC will allocate resources to local governments according to a need-based formula that reflects housing damage estimates and population effects resulting from hurricanes.

An eligible local government must submit a strategy outlining proposed recovery actions, household income levels, and the number of residential units to be served and an associated funding request. Program funds must be used to serve households with incomes of up to 120 percent of area median income, except that at least 30 percent of program funds must be reserved for households with incomes of up to 50 percent of area median income and an additional 30 percent of program funds must be reserved for households with incomes of up to 80 percent of area median income. Program funds must be used for each of the following purposes:

- At least 65 percent must be used for homeownership.
- Up to 15 percent may be used for administrative expenses to ensure the expeditious use of funds.
- Up to one-quarter of one percent may be used by the FHFC for compliance monitoring.

Subject to the appropriation of funds by the Legislature for that purpose, the Rental Recovery Loan Program is created to provide funds to build additional rental housing due to impacts to the affordable housing stock and changes to the population resulting from hurricanes. The FHFC will administer the program. The program is intended to allow the state to leverage additional federal rental financing similar to the State Apartment Incentive Loan Program as described in s. 420.5087, F.S.

Each participating local government must submit to the FHFC an annual report on its use of funds from the Hurricane Housing Recovery Program and the Rental Recovery Loan Program.

The FHFC will compile the reports and submit them to the President of the Senate and the Speaker of the House of Representatives.

The FHFC may adopt rules to administer these programs.

Public Facilities Hurricane Restoration Cash Flow Loan Program (Section 5)

The CS establishes for the 2020-2021 fiscal year a Public Facilities Hurricane Restoration Cash Flow Loan Program. Counties, municipalities, and district school boards that need assistance with cash flow in order to make timely payments to contractors and suppliers in restoring their county, municipal, or educational facilities damaged by a named hurricane or tropical storm during the 2018 hurricane season may apply to the DEO for a cash flow loan.

The amount of the loan may not exceed the amount the county, municipality, or district school board needs to meet timely payments to contractors and suppliers for the restoration of damaged facilities. To be eligible for a cash flow loan, a county, municipality, or district school board must meet all of the following requirements:

- Have one or more county, municipal, or educational facilities damaged or destroyed by a named hurricane or tropical storm during the 2018 hurricane season;
- Have an agreement to pay contractors or suppliers for the restoration of the damaged facilities, but have insufficient cash flow to make timely payments;
- Agree to repay, from funds received from insurance claims, Federal Emergency Management Agency payments, or other fund sources, the full amount of the funds received from the cash flow loan program; and
- Agree that if repayment is not made in a timely manner, the DEO must withhold future distribution of public capital outlay funds, or other fixed capital outlay funds, until repayment is received by the DEO.

The DEO must provide information and instructions for applying for a cash flow loan and administer the loans in accordance with the act. The DEO must distribute loan funds based on the county or municipal governing body's or district superintendent's certification of the amount needed for payments that are due within the following 30 days. All funds repaid will be deposited unallocated into the Budget Stabilization Fund within 30 days after receipt by the DEO.

The DEM must notify the DEO when payments from the Federal Emergency Management Agency for a named hurricane or tropical storm during the 2018 hurricane season have been distributed to a county, municipality, or district school board that has received a public facilities hurricane restoration cash flow loan.

Effective Date (Section 6)

The provisions of the CS take 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.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals in need of housing assistance in areas impacted by hurricanes may benefit from the creation of the Hurricane Housing Recovery Program and the Rental Recovery Loan Program.

C. Government Sector Impact:

The CS provides $585,000 in nonrecurring appropriations from the General Revenue Fund as follows:
- Hurricane Michael After Action Report - $85,000; and
- OPPAGA Evaluation of DEM Reimbursement Process - $500,000.

Both the Hurricane Housing Recovery Program and the Rental Recovery Loan Program are subject to appropriation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The FHFC provided the following additional comments:[24]

- Lines 224-226 are inconsistent with section 420.5087, F.S. and the State Apartment Incentive Loan (SAIL) program as the recipients of these funds are not local governments. This language should be removed from the bill; and
- Line 196-198 requires program funds to be used to serve households with incomes up to 120 percent of area median income. If the intent is to mirror the requirements of the State Housing Initiatives Partnership (SHIP) program in ss. 420.907-420.9079, F.S., this should be amended to read "incomes up to 140 percent…"

VIII. Statutes Affected:

This CS creates the following sections of the Florida Statutes: 420.57

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Infrastructure and Security on February 10, 2020:
The committee substitute removes the requirement to update the statewide and regional hurricane evacuation studies and the corresponding $500,000 appropriation.

B. Amendments:

None.

[24] Florida Housing Finance Corporation, *Bill Analysis for SB 502 (2020)*, p. 6, November 6, 2019.