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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/07/2021	.	
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The Committee on Rules (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 788 - 890

and insert:

Section 12. Section 252.38, Florida Statutes, is amended to read:

252.38 Emergency management powers of political subdivisions.—Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state. However, political subdivisions are given police powers to preserve, not impair,



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12 private rights. Therefore, a political subdivision that deprives
13 any person of a constitutional right, a fundamental liberty, a
14 statutory right, or property to address a purported emergency
15 bears the burden of proving that the exercise of police power is
16 narrowly tailored, serves a compelling governmental interest,
17 and accomplishes the intended goal through the use of the least
18 intrusive means.

19 (1) COUNTIES.—

20 (a) In order to provide effective and orderly governmental
21 control and coordination of emergency operations in emergencies
22 within the scope of ss. 252.31-252.90, each county within this
23 state shall be within the jurisdiction of, and served by, the
24 division. Except as otherwise provided in ss. 252.31-252.90,
25 each local emergency management agency shall have jurisdiction
26 over and serve an entire county. Unless part of an
27 interjurisdictional emergency management agreement entered into
28 pursuant to paragraph (3) (b) which is recognized by the Governor
29 by executive order or rule, each county must establish and
30 maintain such an emergency management agency and shall develop a
31 county emergency management plan and program that is coordinated
32 and consistent with the state comprehensive emergency management
33 plan and program. Counties that are part of an
34 interjurisdictional emergency management agreement entered into
35 pursuant to paragraph (3) (b) which is recognized by the Governor
36 by executive order or rule shall cooperatively develop an
37 emergency management plan and program that is coordinated and
38 consistent with the state comprehensive emergency management
39 plan and program.

40 (b) Each county emergency management agency created and



41 established pursuant to ss. 252.31-252.90 shall have a director.
42 The director must meet the minimum training and education
43 qualifications established in a job description approved by the
44 county. The director shall be appointed by the board of county
45 commissioners or the chief administrative officer of the county,
46 as described in chapter 125 or the county charter, if
47 applicable, to serve at the pleasure of the appointing
48 authority, in conformance with applicable resolutions,
49 ordinances, and laws. A county constitutional officer, or an
50 employee of a county constitutional officer, may be appointed as
51 director following prior notification to the division. Each
52 board of county commissioners shall promptly inform the division
53 of the appointment of the director and other personnel. Each
54 director has direct responsibility for the organization,
55 administration, and operation of the county emergency management
56 agency. The director shall coordinate emergency management
57 activities, services, and programs within the county and shall
58 serve as liaison to the division and other local emergency
59 management agencies and organizations.

60 (c) Each county emergency management agency shall perform
61 emergency management functions within the territorial limits of
62 the county within which it is organized and, in addition, shall
63 conduct such activities outside its territorial limits as are
64 required pursuant to ss. 252.31-252.90 and in accordance with
65 state and county emergency management plans and mutual aid
66 agreements. Counties shall serve as liaison for and coordinator
67 of municipalities' requests for state and federal assistance
68 during postdisaster emergency operations.

69 (d) During a declared state or local emergency and upon the



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70 request of the director of a local emergency management agency,
71 the district school board or school boards in the affected area
72 shall participate in emergency management by providing
73 facilities and necessary personnel to staff such facilities.
74 Each school board providing transportation assistance in an
75 emergency evacuation shall coordinate the use of its vehicles
76 and personnel with the local emergency management agency.

77 (e) County emergency management agencies may charge and
78 collect fees for the review of emergency management plans on
79 behalf of external agencies and institutions. Fees must be
80 reasonable and may not exceed the cost of providing a review of
81 emergency management plans in accordance with fee schedules
82 established by the division.

83 (2) MUNICIPALITIES.—Legally constituted municipalities are
84 authorized and encouraged to create municipal emergency
85 management programs. Municipal emergency management programs
86 shall coordinate their activities with those of the county
87 emergency management agency. Municipalities without emergency
88 management programs shall be served by their respective county
89 agencies. If a municipality elects to establish an emergency
90 management program, it must comply with all laws, rules, and
91 requirements applicable to county emergency management agencies.
92 Each municipal emergency management plan must be consistent with
93 and subject to the applicable county emergency management plan.
94 In addition, each municipality must coordinate requests for
95 state or federal emergency response assistance with its county.
96 This requirement does not apply to requests for reimbursement
97 under federal public disaster assistance programs.

98 (3) EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.—



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99 (a) In carrying out the provisions of ss. 252.31-252.90,
100 each political subdivision shall have the power and authority:

101 1. To appropriate and expend funds; make contracts; obtain
102 and distribute equipment, materials, and supplies for emergency
103 management purposes; provide for the health and safety of
104 persons and property, including emergency assistance to the
105 victims of any emergency; and direct and coordinate the
106 development of emergency management plans and programs in
107 accordance with the policies and plans set by the federal and
108 state emergency management agencies.

109 2. To appoint, employ, remove, or provide, with or without
110 compensation, coordinators, rescue teams, fire and police
111 personnel, and other emergency management workers.

112 3. To establish, as necessary, a primary and one or more
113 secondary emergency operating centers to provide continuity of
114 government and direction and control of emergency operations.

115 4. To assign and make available for duty the offices and
116 agencies of the political subdivision, including the employees,
117 property, or equipment thereof relating to firefighting,
118 engineering, rescue, health, medical and related services,
119 police, transportation, construction, and similar items or
120 services for emergency operation purposes, as the primary
121 emergency management forces of the political subdivision for
122 employment within or outside the political limits of the
123 subdivision.

124 5. To request state assistance or invoke emergency-related
125 mutual-aid assistance by declaring a state of local emergency in
126 the event of an emergency affecting only one political
127 subdivision. The duration of each state of emergency declared



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128 locally is limited to 7 days; it may be extended, as necessary,
129 in 7-day increments. Further, the political subdivision has the
130 power and authority to waive the procedures and formalities
131 otherwise required of the political subdivision by law
132 pertaining to:

133 a. Performance of public work and taking whatever prudent
134 action is necessary to ensure the health, safety, and welfare of
135 the community.

136 b. Entering into contracts.

137 c. Incurring obligations.

138 d. Employment of permanent and temporary workers.

139 e. Utilization of volunteer workers.

140 f. Rental of equipment.

141 g. Acquisition and distribution, with or without
142 compensation, of supplies, materials, and facilities.

143 h. Appropriation and expenditure of public funds.

144 (b) Upon the request of two or more adjoining counties, or
145 if the Governor finds that two or more adjoining counties would
146 be better served by an interjurisdictional arrangement than by
147 maintaining separate emergency management agencies and services,
148 the Governor may delineate by executive order or rule an
149 interjurisdictional area adequate to plan for, prevent,
150 mitigate, or respond to emergencies in such area and may direct
151 steps to be taken as necessary, including the creation of an
152 interjurisdictional relationship, a joint emergency plan, a
153 provision for mutual aid, or an area organization for emergency
154 planning and services. A finding of the Governor pursuant to
155 this paragraph shall be based on one or more factors related to
156 the difficulty of maintaining an efficient and effective



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157 emergency prevention, mitigation, preparedness, response, and
158 recovery system on a unijurisdictional basis, such as:

159 1. Small or sparse population.

160 2. Limitations on public financial resources severe enough
161 to make maintenance of a separate emergency management agency
162 and services unreasonably burdensome.

163 3. Unusual vulnerability to emergencies as evidenced by a
164 past history of emergencies, topographical features, drainage
165 characteristics, emergency potential, and presence of emergency-
166 prone facilities or operations.

167 4. The interrelated character of the counties in a
168 multicounty area.

169 5. Other relevant conditions or circumstances.

170 (4) INVALIDATION OF CERTAIN EMERGENCY MEASURES.—The
171 Governor, or the Legislature by concurrent resolution, may at
172 any time invalidate an order, an ordinance, a proclamation, a
173 rule, or any other measure issued by a political subdivision to
174 address a purported emergency if the Governor or the Legislature
175 determines that such order unnecessarily restricts a
176 constitutional right, a fundamental liberty, or a statutory
177 right.

178 Section 13. Subsections (1), (2), and (3) of section
179 252.385, Florida Statutes, are amended to read:

180 252.385 Public shelter space.—

181 (1) It is the intent of the Legislature that this state not
182 have a deficit of safe public hurricane evacuation shelter space
183 in any region of the state ~~by 1998 and thereafter.~~

184 (2) (a) The division shall administer a program to survey
185 existing schools, universities, community colleges, and other



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186 state-owned, municipally owned, and county-owned public
187 buildings and any private facility that the owner, in writing,
188 agrees to provide for use as a public hurricane evacuation
189 shelter to identify those that are appropriately designed and
190 located to serve as such shelters. The owners of the facilities
191 must be given the opportunity to participate in the surveys. The
192 state university boards of trustees, district school boards,
193 community college boards of trustees, and the Department of
194 Education are responsible for coordinating and implementing the
195 survey of public schools, universities, and community colleges
196 with the division or the local emergency management agency.

197 (b) By January 31 of each even-numbered year, the division
198 shall prepare and submit a statewide emergency shelter plan to
199 the Governor and Cabinet for approval, subject to the
200 requirements for approval in s. 1013.37(2). The emergency
201 shelter plan must project, for each of the next 5 years, the
202 hurricane shelter needs of the state, including periods of time
203 during which a concurrent public health emergency may
204 necessitate more space for each individual to accommodate
205 physical distancing. In addition to information on the general
206 shelter needs throughout this state, the plan ~~must~~ ~~shall~~
207 identify the general location and square footage of special
208 needs shelters, by regional planning council region, ~~during the~~
209 ~~next 5 years~~. The plan must ~~shall~~ also include information on
210 the availability of shelters that accept pets. The Department of
211 Health shall assist the division in determining the estimated
212 need for special needs shelter space and the adequacy of
213 facilities to meet the needs of persons with special needs based
214 on information from the registries of persons with special needs



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215 and other information.

216 (3) The division shall annually provide to the President of
217 the Senate, the Speaker of the House of Representatives, and the
218 Governor a list of facilities recommended to be retrofitted
219 using state funds. State funds should be maximized and targeted
220 to regional planning council regions with hurricane evacuation
221 shelter deficits. ~~Retrofitting facilities in regions with public~~
222 ~~hurricane evacuation shelter deficits shall be given first~~
223 ~~priority and should be completed by 2003. All recommended~~
224 ~~facilities should be retrofitted by 2008.~~ The owner or lessee of
225 a public hurricane evacuation shelter that is included on the
226 list of facilities recommended for retrofitting is not required
227 to perform any recommended improvements.

228 Section 14. Subsection (1) of section 252.44, Florida
229 Statutes, is amended to read:

230 252.44 Emergency mitigation.—

231 (1) In addition to prevention measures included in the
232 state and local comprehensive emergency management plans, the
233 Governor shall consider on a continuing basis steps that could
234 be taken to mitigate the harmful consequences of emergencies. At
235 the Governor's direction and pursuant to any other authority and
236 competence they have, state agencies, including, but not limited
237 to, those charged with responsibilities in connection with
238 protecting and maintaining the public health, flood plain
239 management, stream encroachment and flow regulation, weather
240 modification, fire prevention and control, air quality, public
241 works, land use and land use planning, and construction
242 standards, shall make studies of emergency-mitigation-related
243 matters. The Governor, from time to time, shall make such



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244 recommendations to the Legislature, local governments, and other
245 appropriate public and private entities as may facilitate
246 measures for mitigation of the harmful consequences of
247 emergencies.

248 Section 15. Present subsection (3) of section 252.46,
249 Florida Statutes, is redesignated as subsection (6), a new
250 subsection (3) and subsections (4) and (5) are added to that
251 section, and subsection (2) of that section is amended, to read:

252 252.46 Orders and rules.—

253 (2) All orders and rules adopted by the division or any
254 political subdivision or other agency authorized by ss. 252.31-
255 252.90 to make orders and rules have full force and effect of
256 law after adoption in accordance with ~~the provisions of~~ chapter
257 120 in the event of issuance by the division or any state agency
258 or, if adopted ~~promulgated~~ by a political subdivision of the
259 state or agency thereof, when filed in the office of the clerk
260 or recorder of the political subdivision or agency adopting
261 ~~promulgating~~ the same. Failure of a political subdivision to
262 file any such order or rule with the office of the clerk or
263 recorder within 3 days after issuance voids the declaration or
264 order. All existing laws, ordinances, and rules inconsistent
265 with ~~the provisions of~~ ss. 252.31-252.90, or any order or rule
266 issued under the authority of ss. 252.31-252.90, must ~~shall~~ be
267 suspended during the period of time and to the extent that such
268 conflict exists.

269 (3) Emergency ordinances, declarations, and orders adopted
270 by a political subdivision under the authority of ss. 252.31-
271 252.90, including those enacted by a municipality pursuant to s.
272 166.041(3)(b), must be available on a dedicated webpage



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273 accessible through a conspicuous link on the political
274 subdivision's homepage. The dedicated webpage must identify the
275 emergency ordinances, declarations, and orders currently in
276 effect. Each political subdivision adopting emergency
277 ordinances, declarations, or orders must provide the division
278 with the link to the political subdivision's dedicated webpage.
279 The division must include these links in an easily identifiable
280 format on its website.

281 (4) An order issued by a political subdivision
282 automatically expires 10 days after its issuance; however, such
283 an order may be extended before its expiration by a majority
284 vote of the governing body of the political subdivision if
285 deemed necessary. Upon the expiration of an order, a political
286 subdivision may not issue a substantially similar order to
287 respond to the same emergency. In the event the governing body
288 of the political subdivision is unable to convene before the
289 expiration of the emergency order due to the impacts of a
290 hurricane or other weather-related natural disaster, the 10-day
291 period is tolled until the governing body is able to convene.
292 However, an emergency order issued under this section may not be
293 in effect for more than 30 days unless the governing body
294 approves an extension of the order.

295 (5) An order issued by a political subdivision pursuant to
296 this section which imposes a curfew restricting the travel or
297 movement of persons during designated times must nonetheless
298 allow persons to travel during the curfew to their places of
299 employment to report for work and to return to their residences
300 after their work has concluded.

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302 ===== T I T L E A M E N D M E N T =====

303 And the title is amended as follows:

304 Delete lines 99 - 112

305 and insert:

306 emergency funds; amending s. 252.38, F.S.; specifying
307 that a political subdivision has the burden of proving
308 the proper exercise of its police power in the
309 issuance of certain emergency orders; authorizing the
310 Governor or the Legislature to invalidate emergency
311 measures issued by a political subdivision under
312 specified conditions; amending s. 252.385, F.S.;
313 requiring the division's hurricane shelter plan to
314 address hurricane shelter needs during public health
315 emergencies; amending s. 252.44, F.S.; requiring
316 emergency mitigation planning by state agencies to
317 include agencies with jurisdiction over public health;
318 amending s. 252.46, F.S.; providing that a failure by
319 a political subdivision to file certain orders and
320 rules with specified entities within a specified
321 timeframe voids the issued orders or rules; requiring
322 that certain orders be available on a dedicated
323 website; requiring the Division of Emergency
324 Management to provide such links on its website in a
325 specified format; providing for the automatic
326 expiration of emergency orders issued by a political
327 subdivision; authorizing the extension of such orders
328 if certain conditions are met; prohibiting a political
329 subdivision from issuing a subsequent order for the
330 same emergency that is substantially similar to the



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331 expired order; providing for the tolling of the
332 automatic expiration of an order if certain conditions
333 exist; requiring that orders issued by a political
334 subdivision which impose a curfew restricting travel
335 or movement allow persons to travel during the curfew
336 to and from their places of employment; amending s.
337 377.703, F.S.;